

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

UNITED STATES OF AMERICA,

Plaintiff,

vs.

RANDALL KEITH BEANE AND
HEATHER ANN TUCCI-JARRAF,

Defendants.

Case No.: 3:17-CR-82

VOLUME III of VIII

JURY TRIAL PROCEEDINGS
BEFORE THE HONORABLE THOMAS A. VARLAN

January 25, 2018
9:08 a.m. to 4:50 p.m.

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Jerald Byrne - Cross-Examination

1 (Call to Order of the Court)

2 THE COURT: Morning, everyone. Looks like we're
3 ready.

4 Ms. Tucci-Jarraf, are you going first on
5 cross-examination?

6 MS. TUCCI-JARRAF: No. Mr. Beane.

7 THE COURT: Mr. Beane. Okay. Then we'll start in
8 that regard. Bring our jury in.

9 (Jury in at 9:08 a.m.)

10 THE COURT: Thank you. Everyone may be seated. Good
11 morning to our members of the jury. Hope everyone had a
12 pleasant evening.

13 If you will recall, the government finished with its
14 direct examination of this witness yesterday afternoon, so the
15 defendants now have the opportunity for cross-examination. I
16 believe the defendant Mr. Beane is going to begin with
17 cross-examination.

18 Mr. Beane.

19 **CROSS-EXAMINATION**

20 BY MR. BEANE:

21 Q Good morning, Mr. Byrne.

22 A Morning. How are you?

23 Q I'm good. How are you?

24 A Good. Thank you.

25 Q I want to ask you a few questions about some of the

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Jerald Byrne - Cross-Examination

1 stuff I heard you testifying on yesterday.

2 This is the -- okay.

3 THE COURT: Is this a copy of a previously introduced
4 exhibit?

5 MR. BEANE: Yes, one minute.

6 THE COURT: Government's 116?

7 MR. BEANE: Yes.

8 THE COURT: Okay.

9 THE WITNESS: Trying to get to it there. That's a
10 worksheet, Preliminary Work Sheet.

11 BY MR. BEANE:

12 Q Yesterday you made mention whoever had filled this
13 out evidently didn't know what they were doing?

14 A No. I said that the date was wrong on the top of it.
15 See, every time something is entered into our system, which is
16 the second the customer comes in, when you walk in and somebody
17 meets you, greets you, and your information goes in the system.
18 It's time stamped in our -- in our computer system.

19 Q All right. This Mr. Lassetter, Dan Lassetter, is
20 that his name?

21 A Yes. Yes, sir.

22 Q He's a salesman. Correct?

23 A I'm sorry?

24 Q He's a salesman. Correct?

25 A Yes, he is.

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Jerald Byrne - Cross-Examination

1 Q Mr. Lassetter is one of the first people I met at
2 Buddy Gregg and I actually did meet him on the 5th. Do you
3 remember that day?

4 A No, sir. It wasn't entered in the system.

5 Q I actually spent several hours there with
6 Mr. Lassetter looking at coaches and sitting in his office and
7 conversing about how he got in the luxury motor home business.
8 I'm wondering why it would have not been put in I was there on
9 the 5th?

10 A It says here date of the 5th. It's not in the system
11 on the 5th. It means that --

12 Q But I was there --

13 THE REPORTER: I need you to speak one at a time.

14 BY MR. BEANE:

15 Q Okay.

16 A There's no entity created.

17 Q Okay.

18 A The entity was created on the 6th. The entity number
19 is 1056552.

20 Q Okay.

21 A And it was entered somewhere in the vicinity, I
22 believe, if I -- I pulled it up when I was -- I spoke with
23 earlier on by the folks from -- from the prosecution. The
24 first entry was at 10:52 on -- on 7/6/17.

25 Q Okay. Would it be possible that he saved the

UNITED STATES DISTRICT COURT

Jerald Byrne - Cross-Examination

1 paperwork and did it the next morning after I left?

2 A I guess anything could have happened. But there is a
3 receptionist that enters this stuff up front. Dan would have
4 had to get this sheet from the receptionist. So it would have
5 been entered the second Dan got the sheet. They're not -- as
6 you can see, they're numbered at the top. This isn't something
7 that just randomly flows throughout the dealership. It's
8 something that's controlled so we understand what the traffic
9 flow is.

10 Q My main point I wanted to point out was Mr. Lassetter
11 was the first person I met. I don't recall meeting you until
12 the 10th. Do you remember meeting me before the 10th?

13 A Yes. Well, I shook your hand out in the -- in the --
14 on the -- I guess it would be the foyer right there in front.
15 Spoke with you on -- it would have been -- if I could have that
16 calendar again, I believe it was the 8th I spoke with you.

17 And I -- forgive me, are you Heather? Okay. I just
18 never put the face -- it would have been on the -- on the 8th,
19 I spoke with you first. On the 10th, I believe is when we
20 started having the phone call between USAA and ourselves. So I
21 know I spoke with you plenty on the 10th. But on the 8th was
22 our first conversation.

23 Q Okay. That was on a Saturday?

24 A It would have been on a Saturday. We would have
25 scanned -- we would have scanned the documents on Friday for

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Jerald Byrne - Cross-Examination

1 the --

2 Q Right.

3 A -- for the wire transfer. We also would have -- we
4 would have gotten a copy of a -- of a -- of the trust, so the
5 conversation would have been -- it would have been on the 8th.

6 Q Okay. So I've got another document here. Talking
7 about the delivery date yesterday, you said it was delivered on
8 the 8th. According to this document, it was delivered on the
9 7th. It actually was delivered on the 7th, because I actually
10 spent the night in it on the 7th.

11 A It was walked on the 7th. It was walked on the 7th.
12 The delivery would have been -- correct, the delivery would
13 have been the second the money hits Whitney account, which was,
14 I believe, somewhere on the 8th.

15 Q Let me find this document.

16 A At ten, I believe that was like 10:17 or 12:17 or
17 something like that on Saturday.

18 Q Okay. I apologize for taking so long here.

19 A That's all right.

20 Q We decided last minute I was going to go first. I
21 thought I was going to have a little more time to get ready.

22 Let me get this thing out of here, see if I can help
23 out.

24 A Basically, what I assume you're trying to find is the
25 registration through Spartan.

UNITED STATES DISTRICT COURT

Jerald Byrne - Cross-Examination

1 Q Through Entegra Coach?

2 A Through Entegra and Spartan. Yeah, that's a
3 preliminary list saying we walked the coach with you. Doesn't
4 give you delivery of the coach, because we don't have the funds
5 of the coach. So you walked it on the 7th, because we don't
6 have anybody to walk it on the 8th for you.

7 Q I actually walked it and left with it on the 7th.

8 A And then --

9 Q Exhibit 129.

10 THE COURT: Let's show this document. This is
11 Government's Exhibit 129. You want to ask him a question about
12 that, Mr. Beane?

13 MR. BEANE: Yeah, that's the one I wanted to confirm
14 this delivery date on the 7th here.

15 THE WITNESS: I'm sorry. This is 120.

16 THE COURT: 129.

17 THE WITNESS: 129. Okay. This is the -- this is
18 basically the walk. It says that we -- we've walked the unit
19 with you.

20 BY MR. BEANE:

21 Q Right.

22 A You've went through -- you've went through your --
23 you know, your final walk-on, see, understand the operations of
24 the coach. We frequently let you spend the night without the
25 money. The coach will leave the premises. It will leave the

UNITED STATES DISTRICT COURT

Jerald Byrne - Cross-Examination

1 premises on a test drive, contingency upon something, but the
2 coach was returned back to the dealership. It didn't spend the
3 night out on -- on Friday night.

4 Q I actually stayed on the property there on the coach.

5 A On the property, correct.

6 Q The coach, I was given all documentation, all owner's
7 manuals, both sets of keys?

8 A That's right.

9 Q And it was hooked up to power and water for me that
10 night --

11 A Correct.

12 Q -- to stay on the property.

13 A Correct.

14 Q But I had the opportunity to take the coach at that
15 point if I decided to?

16 A And that would have been a problem, but, I mean, I
17 guess you could have drove off the lot with it.

18 Q That was never discussed with me. I was told it was
19 my coach at that point, I could do whatever I choose to do.

20 A Well, if the funds aren't in the account, we're not
21 letting the coach leave the premises. I mean, we'll let it
22 leave, but it's got to return for it -- it's got to stay on
23 property.

24 Q I guess my question to you is, at that point, being
25 that I had both sets of keys and all the paperwork and the

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Jerald Byrne - Cross-Examination

1 warranties, all the information I needed, I could have left
2 that night. Correct?

3 A Our security here probably would have had a problem
4 with it, but I guess if you could have gotten around him, you
5 could have left.

6 Q Right. I had a gate code to get in?

7 A Oh, absolutely. Yeah. Yeah, we give you that in the
8 event --

9 Q I had that.

10 A Yes.

11 Q And Mr. -- actually, Mr. Dan Lassetter --

12 A Lassetter, yes, sir.

13 Q -- he gave me the gate code that night --

14 A Sure.

15 Q -- so I could get in and out.

16 A Sure.

17 Q I have some more questions here. Also, I wanted
18 to -- on the day of the arrest, I was accompanied by two other
19 individuals.

20 A Yes.

21 Q One of whom was a female --

22 A Right.

23 Q -- who told the FBI agents we were headed to Texas.

24 A That's right.

25 Q And this was confirmed --

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Jerald Byrne - Cross-Examination

1 MS. SVOLTO: Objection. It appears that Mr. Beane is
2 testifying. We'd ask him to shorten his questions.

3 THE COURT: You need to ask a question.

4 MR. BEANE: I'm asking a question, yes, sir.

5 THE COURT: You're giving a factual summary and then
6 leading up to questions. You just need to ask the question.
7 Thank you.

8 MR. BEANE: Okay.

9 BY MR. BEANE:

10 Q It says in here that Buddy -- one of the Buddy Gregg
11 employees confirmed that that was true, that I was going to
12 Texas. Are you that employee? Did you know in fact -- you
13 said yesterday I was going west?

14 A West. I didn't know whether it was Texas or --

15 Q How did you know I was going west?

16 A Dan. Dan. Dan talked to me. You also talked to me
17 on -- it would have been the 7th or the 8th and indicated that
18 you were -- you were heading out west, that you had folks out,
19 I believe it was Seattle and -- I don't know anything about
20 Texas. I know it was out west.

21 Q Okay. One other question I have here, on the -- on
22 the sales -- sales order, I don't remember what --

23 A Probably 105.

24 THE COURT: Witness is suggesting it's 105.

25 THE WITNESS: No, it's going to be 100 or 95.

UNITED STATES DISTRICT COURT

Jerald Byrne - Cross-Examination

1 MS. TUCCI-JARRAF: Is that the purchase, Exhibit 122,
2 123?

3 THE COURT: Let's try 122.

4 MS. TUCCI-JARRAF: 122 and 123. 123 was the
5 original, 122 was the revised.

6 THE WITNESS: 122 is the power of attorney.

7 MS. TUCCI-JARRAF: Oh, excuse me. You're right. I
8 think it's 95 or 96 was the -- nope.

9 THE WITNESS: 100 isn't there. This is after the
10 trust.

11 BY MR. BEANE:

12 Q Right.

13 A When the trust was entered.

14 Q The line I want to focus on is the vehicle sales tax.

15 A Okay.

16 Q Is it typical for a -- for a dealership like yours
17 to -- when someone is purchasing and they get the
18 manufacturer's certificate of origin to charge taxes?

19 A Correct.

20 Q And are these tax -- have these taxes been turned
21 into the DMV?

22 A They have.

23 Q And what paperwork were they turned in with?

24 A They would have been turned in with Randall Keith
25 Beane Duly Factualized.

UNITED STATES DISTRICT COURT

Jerald Byrne - Cross-Examination

1 Q And what paperwork would you have used to do that
2 since I have the certificates of origin?

3 A The -- well, we would have used the power of
4 attorney. We would have had three powers of attorneys
5 submitted. We would have had the registration form, which is,
6 I don't know what exhibit it is, but whatever the -- is that
7 122 or -- we would have used Exhibit 121, which would have been
8 the taxpayer multiple purpose, it does registration. It does
9 everything for the thing. It also -- we have a copy of the
10 certificate of origin to turn it in so it comes back with your
11 name on it.

12 We collect sales tax in the state of Tennessee. It's
13 mandatory. If somebody comes from Washington and buys --
14 Washington state and buys a motor home from me, and we -- it's
15 cash, we don't pay their sales tax. They go back to Washington
16 and pay their own.

17 Q Right.

18 A In Tennessee, it doesn't happen that way. You're
19 required in your own state to collect the sales tax.

20 Q So you just take a copy of the certificate of origin
21 to the --

22 A Correct. That's right.

23 Q You don't have to have the actual certificate?

24 A We usually -- to be honest, unless you requested it,
25 we would have brought it for titling. So the certificate of

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Jerald Byrne - Cross-Examination

1 origin wouldn't have had Jayco and Buddy Gregg, and on the
2 back, Randall Keith Beane Duly Factualized. If we would have
3 done the actual titling, it would have come in the mail to you,
4 under -- we would have been removed, there wouldn't have been
5 any names on the backside of the certificate of origin. It
6 would have been your name on the front.

7 So we didn't do the titling. If you have the -- if
8 we would have done the registration, we would have paid the
9 sales tax, but we wouldn't have done the titling, because you
10 had the certificate of origin.

11 Q Did you at any point, once you met me, feel like that
12 I was in any way scamming you?

13 A To be truthful with you, the only time we got any
14 indication that anything was going on differently than the
15 typical purchase at Buddy Gregg was when we got a call from
16 True Brown and Donald Patterson and multiple people, and then
17 we started to try to kind of put things together.

18 So, I mean, you were a gentleman when you were in
19 there. You were -- I mean, you were always kind to us, so, I
20 mean, there wasn't anything that we -- there's nothing out of
21 the ordinary for us.

22 Q Would you agree that once we -- we were sitting in
23 your office conversing over what was taking place, would you
24 agree that I was as surprised as you were that anything was
25 happening?

UNITED STATES DISTRICT COURT

Jerald Byrne - Cross-Examination

1 A Yeah. I mean, it's hard to know how you were
2 feeling, but I know I was feeling kind of confused because too
3 much stuff was going on at once.

4 Q I think we were all trying to -- you know, just kind
5 of -- we didn't know what to do, because we'd never dealt with
6 that before either, none of us.

7 Oh, I did want to ask you, on the extended warranty,
8 is it typical of someone who is -- in all your years in the
9 business, for someone who is planning on turning around and
10 selling the vehicle for profit to buy an extended warranty on
11 it?

12 A I was never under the impression you were trying to
13 sell it for profit.

14 MR. BEANE: Thank you. No further questions.

15 THE COURT: Thank you.

16 Cross-examination?

17 MS. TUCCI-JARRAF: Yes, please.

18 THE COURT: Ms. Tucci-Jarraf.

19 **CROSS-EXAMINATION**

20 BY MS. TUCCI-JARRAF:

21 Q Without prejudice, I have a few questions for you,
22 Mr. Byrne.

23 Mr. Byrne, I'm sorry?

24 A Yes, sir.

25 Q I misrepresented your name.

UNITED STATES DISTRICT COURT

Jerald Byrne - Cross-Examination

1 Okay. The first time that you and I did have a phone
2 conversation, but I've -- we've never met. Is that correct?

3 A No, ma'am.

4 Q Until this moment?

5 A Correct.

6 Q Okay. You stated that you had been a general sales
7 manager for two years with Buddy Gregg?

8 A Yes, correct.

9 Q But that you had been in the industry for 31 years?

10 A Correct.

11 Q Okay.

12 A Close to 31 years, not quite.

13 Q Yeah.

14 A Twelve days away, so, yeah.

15 Q I remember our conversation. In fact, why don't we
16 just start there, as far as our conversation, I'm going to go a
17 little out of order, chronological order from Ms. Davidson and
18 of course Mr. Beane, that discussion that we've had on
19 approximately July 8th --

20 A Sure.

21 Q -- was that the first conversation that you and I had
22 ever had?

23 A That would have been our first, yes.

24 Q Right. And do you recall that conversation that we
25 had, what it revolved around?

UNITED STATES DISTRICT COURT

Jerald Byrne - Cross-Examination

1 A Briefly from the notes I have from the CRN. Whenever
2 there's a call that's generated, it also goes into our computer
3 system. So if Randall called you, which is indeed what
4 happened, it would have -- it would have -- we would have had
5 it registered in our system, so --

6 Q And, in fact, when we spoke, I asked for the MSO or
7 the origin certificate. Isn't that correct?

8 A You would have asked for that, yes.

9 Q Yeah. In fact, that's why we even had the
10 conversation is I was saying that I was calling for the MSO to
11 see if you had it on site or off site?

12 A Well, you -- you -- it didn't quite go that in depth
13 on the -- so I'm just kind of going by what I can remember on
14 that. It doesn't record the conversation, but there's probably
15 a good shot you would have asked if we would have had it on
16 premise or not. That's what the majority would ask.

17 The -- other thing was what we're doing. We had it
18 in Randy's name. It was under Randy Beane instead of Randall
19 Keith Beane Duly Factualized. And you made him aware that it
20 had to go into the trust's name.

21 Q That's right. On 7/8 after --

22 A On the 8th.

23 Q -- after the purchase order, after all the paperwork
24 had been done, and the wire transfer had come in, as well as
25 the PO, which was in Randall Beane's name, not in the

UNITED STATES DISTRICT COURT

Jerald Byrne - Cross-Examination

1 factualized trust, I said that had to be -- that I had asked
2 you if you would redo the paperwork so that it was lawful and
3 legal. Is that correct?

4 A Correct. That would have been -- no. No, ma'am.
5 No. We got documents on the 7th. We did it without -- we did
6 it without you originally on the 7th.

7 Q Right.

8 A And we had it in Randy's name and Randall Keith -- we
9 had two buyers.

10 Q Right.

11 A And you said it has to go into the factualized which
12 is when we put the note on the thing that it was to be
13 registered --

14 Q Right.

15 A -- to Duly Factualized.

16 Q After the paperwork had already been done.

17 A That's right.

18 Q And the wire had been sent before the MSO was
19 delivered to Mr. Beane --

20 A True.

21 Q -- I said that had to be correct, so that the title
22 was --

23 A Would come back correct.

24 Q -- correct on the back? Is that your recall as well?

25 A That's right.

UNITED STATES DISTRICT COURT

Jerald Byrne - Cross-Examination

1 Q In fact, I remember not knowing if you would know
2 since you'd said you'd only been there for two years, and
3 that's when you told me you'd been in the industry for 31.

4 A True. And it's different from state to state. I
5 mean, it's --

6 Q Okay.

7 A You know, Tennessee is different than a lot of other
8 states.

9 Q In fact, you had given me the information about how
10 the state -- like, if you were to register the title with the
11 MSO, that you would have to keep the MSO is what you told me.
12 Do you remember that?

13 A Yeah. We would have to -- in order to title it, we
14 would have to submit the original MSO. We can register it
15 without a title. We'd have a copy of the MSO bill of sale. We
16 would collect the sales tax. We would then put the
17 registration in effect.

18 Q And by you guys doing the MSO, you would actually
19 register that with who?

20 A It would have been Tennessee Motor Vehicle.

21 Q So you would have registered it with the State of
22 Tennessee?

23 A Correct.

24 Q And what happens to that MSO title then, it gets
25 transferred to a state title. Is that correct?

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Jerald Byrne - Cross-Examination

1 A It would go to a state title, and then it would go to
2 Randall Keith Beane Duly Factualized.

3 Q I think the words that you used was that it's
4 converted to a state title when you explained it to me?

5 A Correct.

6 Q I'm sorry. What was your response?

7 A Correct.

8 Q Thank you.

9 In fact, you had stated when it was converted to a
10 state title, that's where you would have to pay with the power
11 of attorney that would be signed over to you to be able to do
12 that by Mr. Beane, that you would pay the state tax from the
13 money he gave --

14 A We did pay the state -- we paid the state tax when we
15 register it. In order to -- in order to get -- we have to have
16 it in within a certain length of time, and Tennessee is a
17 little different than other states, but I think it's within 21
18 days of the purchase, the sales tax has to be in.

19 Q Right. When -- so that MSO, which they showed and
20 let's -- just so that we can have this clear.

21 A A copy of the MSO.

22 Q That would be -- David, if you wouldn't mind helping
23 me with 117, please. Now, there's two titles -- you have the
24 cab and you have the title for the chassis?

25 A Yeah. The chassis doesn't get registered with the

UNITED STATES DISTRICT COURT

Jerald Byrne - Cross-Examination

1 state, just the cabin.

2 Q Right. Just the cabin.

3 Am I able to operate to make it bigger?

4 MS. DAVIDSON: You can just draw on it.

5 MS. TUCCI-JARRAF: With my finger?

6 MS. DAVIDSON: Just use your finger to circle
7 whatever you want.

8 THE COURT: I think she's asking if it can be
9 magnified.

10 MS. DAVIDSON: Can you make it bigger?

11 MS. TUCCI-JARRAF: Thank you.

12 BY MS. TUCCI-JARRAF:

13 Q Can you see that?

14 A I can.

15 Q Okay.

16 THE COURT: There we go.

17 BY MS. TUCCI-JARRAF:

18 Q So who is the certificate -- the certificate of
19 origin, can you let everyone know what a certificate of origin
20 actually is?

21 A Yeah. It's the beginning of a title.

22 Q So like a birth certificate?

23 A It is -- well, similar.

24 Q Okay. And who is this -- this certificate of origin
25 given to?

UNITED STATES DISTRICT COURT

Jerald Byrne - Cross-Examination

1 A It would be -- it would be given to us, Buddy Gregg
2 Motor Home. It would be given to us with -- to our floor plan.
3 We pay for the unit, and they put our name on the certificate
4 of origin.

5 Q And that was done on 11/30/16?

6 A Yes.

7 Q Okay. And so within 90 days, a tax has to be paid on
8 that?

9 A No. No. We don't pay tax. We're the dealer.

10 Q You're the dealer, so you get exempted because it's
11 for a sale?

12 A Yes. Correct. It never gets titled until it goes to
13 the owner.

14 Q Okay. And which at that point, it usually gets
15 converted to a state title?

16 A Yes. It would -- it would be turned in -- it would
17 be turned in with the -- when you have your registration, it
18 will also show that you paid your sales tax, and it would be
19 turned in, and Randall could have gotten the title that it was
20 Duly Factualized with the trust.

21 Q So that would be a copy that the state would actually
22 issue to him would be a copy of this particular one?

23 A No. He'd have the original.

24 Q He got the original?

25 A Yeah. He was titling his own unit.

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1 Q Okay. So at this point, it only -- with him holding
2 this title, it would only belong to him with no state
3 conversions?

4 A Correct. But you have to -- you have to convert it
5 to a state title. You've paid your state sales tax, it has to
6 be titled to that state. He can bring it somewhere else,
7 change -- change the title to whatever he wants to change it
8 to. He can go to Guam, if he wants, and have that, but it
9 originally has to start out as the State of Tennessee.

10 Q Well, if I recall correctly, you stated that you
11 could give him like a 30-day license tab pass so he can take it
12 to whatever state that he wanted to actually register or do a
13 state conversion to. Is that correct?

14 A Yeah. But the sales tax had to be paid in the state
15 of Tennessee. He would have gotten -- he could have converted
16 this over, but his original title would have had to have been
17 from Tennessee. That stops people from avoiding sales tax.

18 In other words, they're not allowed to go to Montana,
19 create an LLC and pay absolutely no tax. I mean, that's
20 something that's been -- people set up trusts, go to -- go to
21 Montana or go to other states that don't have sales tax, save
22 \$33,000 in sales tax from the State of Tennessee and never have
23 an actual address in Montana. They get a P.O. Box that cost
24 them 15, \$1800. And they've kind of stopped that.

25 That's why we collect -- if you buy it in the state

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1 of Tennessee, we require you to pay the Tennessee tax. If you
2 have a trust set up in Montana and we do not collect your tax,
3 we don't do any of your registration. We don't do anything.
4 We hand you the certificate of origin, you can go do what you
5 want, and when you get caught, you're in trouble, not us.

6 Q So when they go to register in another state, for
7 instance, to do a state conversion of this title, they -- that
8 state actually collects that tax and sends it to Tennessee,
9 their portion?

10 A No. No. We paid -- when you buy in the state of
11 Tennessee, the dealer is -- it's mandatory that the dealer pays
12 Tennessee tax. All the stuff is being registered to whatever
13 his address was, it was somewhere here in Knoxville anyway, I'm
14 not sure what the thing is. But it was being registered to 300
15 State Street, Knoxville, Tennessee.

16 Q Uh-huh.

17 A Is that his address?

18 Q So what would be the purpose of giving them the
19 30-day license tab pass to be able to register the certificate
20 of origin in another state --

21 A No. You would be -- you would have to register --
22 you would have -- this was being registered in Tennessee. The
23 taxes had to be paid in the state of Tennessee.

24 Q I'm understanding what you're telling us here today.
25 What I'm asking is that 30-day license tab?

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1 A That 30 days is so you can go out on the road.
2 That's all that it is. It's the same as a motor vehicle. You
3 get a 30-day temp tag to let all the paperwork process through
4 the motor vehicle, to -- so you're not driving down the road
5 without a tag. That's the only reason you need a 30-day tag.

6 Q Okay. So then on the back of the MCOs, you actually
7 wrote -- was it you that wrote over?

8 A That would have been Don, Nelson Forbes.

9 Q Nelson Forbes?

10 A Correct.

11 Q Thank you. And what date would that have been done
12 on?

13 A I'd have to find the exhibit. It would have been
14 done within the 30 days, I can say that. So it would have been
15 done before the 7th of August. I -- I don't know what --

16 Q The 7th of August, the title?

17 A The title work -- the registration would have been
18 done before the 7th of August.

19 Q 7th of August or 7th of July?

20 A It would have been done -- you have 30 days from the
21 day --

22 Q Oh, excuse me.

23 A -- that it's issued, so it would have been before the
24 7th of August. Now not knowing how -- I mean, I don't follow
25 up on all the title work. I only get the complaint calls if

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1 it's not done by then.

2 But the -- considering the circumstances, I don't
3 know if the FBI or anybody else had gotten in the middle of
4 that and of this or if the plate's sitting at 300 State Street,
5 Apartment 365 in Knoxville. I don't know. I -- I -- there's
6 no way for me to know that.

7 Once it's -- once the sales tax is paid and the stuff
8 is processed through our thing, I get no more -- it's now
9 Randall's. It's now Randall's deal. You know what I mean?
10 It's up to him.

11 Q His property?

12 A Yeah. So --

13 Q And you guys received the wire on the 8th?

14 A 8th.

15 Q Of July?

16 A Correct.

17 Q And that was Exhibit 103 at 12:10 p.m. Correct?

18 A Correct.

19 Q And when I had contacted you, and we had spoke the
20 first time -- in fact, it was after 12:10 p.m., because the
21 paperwork still showed Randy Beane, and I had instructed you
22 that that actually had to be changed to the factualized trust.

23 A Well, it was changed on the 7th. We've got a copy
24 of -- it would have scanned -- we would have scanned a copy of
25 the duly factualized. It doesn't have to be an original with

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1 the scan, but we would have done that. And then it would
2 have -- it would have transferred over instantaneously to the
3 trust account on the 7th, which is what the paperwork
4 indicates.

5 Q Yes. I understand what the paperwork indicates.
6 And, in fact, so when you received the factualized trust
7 paperwork was the first time that you would have been able to
8 actually know the factualized trust and to be able to put the
9 correct language into that paperwork. Is that correct?

10 A Correct.

11 Q And you believe that it was on 7/7?

12 A It would have been on 7/7. Now, I'm seeing -- I
13 can't tell because these are photocopies, but we have two
14 copies of the trust. We have an actual copy of it, and then we
15 had -- when Randall came in and he had -- he had red dye on his
16 fingers and stuff and brought this thing in, that was after --
17 that was after the initial contact, I believe it was on the
18 10th or the 11th. It would have been the 11th. He would have
19 brought in the actual trust paperwork, because I asked, please,
20 bring something in that is original documents. And he didn't
21 have the original documents of the original trust. We got --
22 we got a photocopy of it. And we wanted that for our records.
23 Want to protect the customer. And to, of course, protect us.

24 Q Okay. So Exhibit 105, please, David.

25 On this exhibit here, is this part of the

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1 documentation from July 11th that you're talking about that you
2 received?

3 A This could be the copy or it could be the original.
4 I don't know. This is a photocopy on the screen, so this is --
5 this is -- I mean, the gist of the trust was -- let's see, on
6 July 7th.

7 Q This, I believe, is what documentation Ms. Davidson
8 showed you yesterday, and you said that this was the
9 factualized trust?

10 A This is the factualized trust.

11 Q When in fact this is actually a declaration of valid
12 purchase, which is what Lauren Palmisano -- Palmisano and
13 Mr. Cohen had asked for.

14 A I don't know which exhibit this is.

15 Q It's Exhibit 105.

16 A Let me look at it so I can see it a little closer on
17 my end.

18 Q Just going to clarify the record here, because you
19 had said this was the factualized trust documentation that you
20 had received. This was the first documentation of the
21 factualized trust that you guys had actually received.

22 May I see Page 2 of that exhibit, please. Thank you.

23 THE COURT: Can you tell from this document she's
24 referencing whether it was the first reference to the
25 factualized trust?

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1 THE WITNESS: This is the first reference to the
2 trust.

3 THE COURT: Okay.

4 MS. TUCCI-JARRAF: Thank you. I'm sorry.

5 THE WITNESS: And if it's original due declaration,
6 yeah. Correct. Now --

7 BY MS. TUCCI-JARRAF:

8 Q If you go to the last page, Mr. Byrne, could you look
9 at the notary stamp there and please read what date it said.

10 A Well, no, I noticed yesterday it was the 11th.

11 Q Right.

12 A And -- but this here was sent on -- this here was
13 sent to -- I believe this is what you sent to Brad in the bank,
14 if I'm not mistaken.

15 Q And Nahil Mishu is the notary there indicated?

16 A I'm sorry?

17 Q The notary symbol, the stamp?

18 A Yeah. Nahil Mishu.

19 Q Nahil Mishu, is that a notary in your office?

20 A No.

21 Q Do you have a notary in your office?

22 A Five or six, yeah.

23 Q Okay. May I please have -- I'm going to use this,
24 but only to show -- thank you.

25 This is just -- look at it and only answer the

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1 questions at this point that I ask you, please.

2 Do you recognize this document? Can you see it?

3 A I can see it, yeah.

4 Q I'm going to move it up. Do you recognize that
5 document?

6 A I do. It looks like the one in front of me. So that
7 would have been done on the 11th.

8 Q Sorry. Was just waiting for you to say whether you
9 recognize that document.

10 A Oh, yeah, I did. It's the same document I have in
11 front of me.

12 Q Okay. And what exhibit is that?

13 A Except with red dye.

14 Q What exhibit is that?

15 A That's exhibit -- looks like -- this would be 105,
16 part of 105.

17 Q Okay. So Exhibit 105, which was previously admitted
18 by the government, David, if you could pull that up, please,
19 for the first page, and specifically show this -- is that --

20 MS. DAVIDSON: Third page.

21 MS. TUCCI-JARRAF: Third page. Thank you. Page 3,
22 please, David.

23 BY MS. TUCCI-JARRAF:

24 Q Okay. So this is Page 3, which is the factualized
25 trust documentation?

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1 A Okay.

2 Q Okay. And the dates on the notary, David, if you
3 could please move it up?

4 A That's the 11th.

5 Q It shows the 11th?

6 A It does.

7 Q Okay. So that was the first time that you had seen
8 the factualized trust documentation?

9 A This is the -- this is the second -- no, this is the
10 second copy of this that we've gotten. We got a copy of it and
11 then we got an original. We've got an original with the --
12 with the red dye, which, of course, I can't tell by looking at
13 this that it's the original with the red dye.

14 But from what you've indicated, the original date
15 that we received something with that trust would have been the
16 7th, because it was scanned -- it was scanned through in order
17 to create the document that had Randall Beane Duly Factualized.

18 Q And did you provide that document to Ms. Davidson or
19 the FBI?

20 A I'm going to be honest with you, I didn't provide any
21 documents. I just got blessed to come here, so --

22 Q Okay.

23 A Nelson Forbes would have provided the document. I
24 did share with them when they were in my office that you could
25 tell every time stamp, anything on our computer, and it would

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1 have had to come over in a scan in order to be used. You
2 cannot print a buyer's order or a bill of sale if you do not
3 have verification that there's an actual trust. If there's an
4 actual, if you're tax exempt, I have to have forms in order to
5 do that. We just can't randomly just throw things on a piece
6 of paper --

7 Q Right.

8 A -- so --

9 Q And in fact, on the 10th, July 10th, in a
10 conversation, which they played yesterday, not -- only in part
11 and not in whole, that particular conversation, you hear us
12 discussing how all the documentation would need to be provided
13 and would be provided to Buddy Gregg as well as Whitney Bank so
14 that they had full title, origin of funds, history of funds.
15 Do you recall that --

16 A Yeah.

17 Q -- on that tape?

18 A Yeah, absolutely.

19 Q Because this document, this factualized trust
20 document did not exist prior to July 11th.

21 A Okay. That particular one, you're correct, it didn't
22 exist.

23 Q It didn't exist. I had to write it and get it to
24 you.

25 A We -- on July 11th, or excuse me, it would have been

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1 on the 10th when we had our discussion on the thing, and we
2 indicated we needed all this information in order to proceed
3 further.

4 Q Correct. Exactly.

5 A And we needed it -- we needed it in order to create
6 the original document also, which would have been done on the
7 7th, as you can see on -- I'm not sure what exhibit that is.
8 But in order for it to be created in our system, it has to --
9 you have to have a copy of it. If it's -- if there's a
10 misspelling, if there's anything on it, it will pick up that
11 misspelling.

12 Q Exactly. That's my point, is that this document,
13 this factualized trust document didn't exist until July 11th.
14 Whatever was provided to you is not a factualized trust
15 document.

16 A Well, I wouldn't have gotten it. I wouldn't have
17 gotten it by anybody other than Randall.

18 Q And on July 8th, when we spoke, after you had already
19 received the wire and after Mr. Beane had already received the
20 purchase order, which originally said Randall Beane.

21 A Correct. Randy Beane.

22 Q Right? All the paperwork said Randall Beane, and it
23 all had to be changed, and I told you that on our conversation
24 on July 8th.

25 A Correct.

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1 Q Correct?

2 A Well, we had two documents. We're either going
3 with -- it said Randy Beane, not Randall. It said Randall
4 Keith Beane Duly Factualized. You had one or the other.

5 Q So then let's go through that. This is very
6 important with dealerships, they tend to like to only issue
7 paperwork in one sitting. If there's something that has to be
8 changed, all of it has to be changed. Isn't that correct?

9 A No. Not necessarily.

10 Q Not necessarily. Which ones would have to be changed
11 if the correct buyer is not listed?

12 A Anything to do with the registration, anything to do
13 with the titling, anything to do if there was a lien or
14 anything, which there's not.

15 Q Uh-huh.

16 A It would be -- you couldn't do it with the warranty
17 information, because a warranty can't be issued to a trust. It
18 has to be issued to an individual. Because you can't go in and
19 say, you know, he let you borrow the motor home and go in and
20 say, okay, it's -- you know, it's for the trust, it's got to be
21 for Randall Beane. So that's the only thing that wouldn't -- I
22 mean, you wouldn't need to change it for that. You wouldn't
23 need to change it for --

24 Q No. I'm not trying to fog you up here.

25 A Sure.

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1 Q When we had that conversation on July 8th, I wanted
2 to make sure everything was legal and lawful so that all
3 parties were protected. That was our discussion. That's why
4 the MSO needed to be handed over to Randall. And you stated
5 that you'd have to check to see if it was on site or off site.
6 Isn't that correct?

7 A Yeah. Because the 8th, if I'm not mistaken, was the
8 8th a Saturday?

9 Q Yeah.

10 A That's why we would have had to wait.

11 Q Right.

12 A Because I didn't have anybody in the titling office
13 downstairs.

14 Q Exactly.

15 A So --

16 Q There was nobody there on that day, and you said that
17 you would get it as quickly as possible, but you'd have to
18 figure out if it was off site or on site?

19 A Correct.

20 Q And that was in the afternoon on July 8th that we
21 spoke, because you had confirmed to me that you had received
22 the wire. Correct?

23 A Yes. We received a wire at like 12:10. Would have
24 been 11:10 Louisiana time, so ...

25 Q Right. Okay. And at that point when we spoke on

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1 July 8th, in the afternoon, after the wire had been received
2 and the paperwork, I had already reviewed, that had been issued
3 on the 7th that I had told you it had to be reissued with the
4 duly -- with the factualized trust?

5 A Correct.

6 Q And at that point?

7 A Well, no, it was -- no. We've already had it printed
8 as a duly factualized trust. We had some -- whether it be --
9 and this would have been done in the finance office. In order
10 to have that piece of paper on the 7th, he would have had to
11 have gotten something, okay, by Randall, yourself, whoever, in
12 order to create that document, in order to create that bill of
13 sale, we would have had to have something that said "Randall
14 Keith Beane Duly Factualized."

15 Q Okay. Could you please pull up Exhibit 123. Thank
16 you.

17 So this Exhibit 123 --

18 A Yeah. That would have been the original bill of
19 sale, Randy Beane.

20 Q Right. This is the -- well, this is only one of
21 them.

22 A Yeah. There was three -- there's actually three bill
23 of sales, two that you have in exhibits.

24 Q Uh-huh.

25 A Okay.

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1 Q And they're all marked for what date?

2 A They all would have been on the 7th.

3 Q On the 7th?

4 A What would have happened is, it would have been
5 created as Randy Beane, which the salesman would have typed
6 that in. Okay. And it would have been under Randy Beane.
7 Knowing that he is Randall Keith Beane, they would have then
8 brought the documents in to me, I would have changed the --
9 this is the original. This is the very first purchase order
10 that was done. I would have then changed it to Randall Keith
11 Beane. I would have made any changes and documents on that.

12 Beyond that point, if we're going to put it in a
13 trust, you have to -- you have to enter -- it has to be scanned
14 to the actual computer for it to create a trust or anything to
15 do with like someone who doesn't have -- have to pay tax, you
16 actually have to have the document before it allows us to
17 create the thing. Whether the document is -- it can be real,
18 it could be fake, it could be whatever. It's got to be in our
19 hands in order to -- in order to change this buyer's order,
20 which was also on the 7th.

21 Q And yet you didn't provide any -- that document that
22 you say that you got on the 7th to the FBI, DOJ, Buddy Gregg
23 itself did not provide?

24 A I didn't provide any of these documents.

25 Q Right.

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1 A I'm not -- I'm not in the --

2 Q Okay.

3 A There's different departments. That's something that
4 the -- that the controller would have provided.

5 Q Uh-huh. Thank you. Okay. In the normal course of a
6 purchase for any product that Buddy Gregg sells, did
7 Ms. Davidson enter into exhibits everything that you would
8 normally have filled out by any customer?

9 A Pretty much, yeah. I mean, there's quite a bit. I
10 mean, there's certain -- I'd have to go through them, but I
11 believe pretty much everything is there.

12 Q Okay.

13 A A couple new forms, but --

14 Q So it's consistent with purchases that all your
15 clients in the past or present --

16 A Correct.

17 Q -- would get?

18 A Correct.

19 Q Okay. So your statement that all this documentation
20 was done on July 7th and it was never corrected at a later
21 date, you're still maintaining July 7th?

22 A July 7th it was all -- we would have had -- it could
23 have been corrected with a new trust. I don't know. I -- I
24 can't tell because it's not original. This is just photocopies
25 of what we provided. And not only that, my memory just isn't

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1 quite that awesome, but it's -- it would have been time
2 stamped. Okay. Everything in this -- in this company is time
3 stamped. If you call me --

4 Q Yep.

5 A -- it's time stamped. I mean, regardless of what
6 happens, they want to know why we failed with a customer or why
7 we -- how we succeeded with a customer. And that's the way
8 it's done there.

9 Q Okay. Okay. So in your system with these time
10 stamps, is it possible to print reports --

11 A It's not.

12 Q From that particular system?

13 A It's not. We tried the other day. We had to get
14 ahold of Systems 2000. It would take 10 or 12 days to get it
15 done.

16 Q But if you had been asked any time from July 11th
17 onwards to get those printouts, would you have been able to
18 produce them for today?

19 A It would have been -- it would have been tough. I
20 mean, you have to read the -- you'd have to be able to read the
21 lingo of how it -- the history reads.

22 Q Do you know how to read that lingo?

23 A For the most part, yeah.

24 Q Okay. At any time, did FBI or Ms. Davidson or
25 someone from the Department of Justice ever ask you for those

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1 reports?

2 A They did. They asked the other day if I could get a
3 printout of it, and I couldn't. It takes too long. I've got
4 the request in to get it, but the only reason that we even went
5 over that document was because some of it didn't make sense for
6 what we had on the -- on the thing. That's the only reason why
7 I went over it.

8 But you can see in every single one of those things
9 where you've got the scan and it's time -- time stamped when we
10 got our first copy of this -- of this -- you know, of the -- of
11 the original -- well, it wasn't the original -- the thing for
12 the -- for the duly factualized, so --

13 Q Does it also list how long your phone calls are, like
14 how long our phone call would have been, what time, date?

15 A No. Only because it was on a cell phone. It wasn't
16 on our company phone. If it would have been done -- any
17 conversation that would have happened with us on our company
18 phone, it would have -- it would have -- it would have
19 registered.

20 Q Uh-huh. And whose cell phone were you and I
21 speaking?

22 A You were on Randall's.

23 Q July -- on July 8th?

24 A July 8th. Every conversation that I had with you was
25 on Randall's cell phone.

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1 Q So it wasn't in your system?

2 A No. But we -- but, again, we make -- we manually
3 make notes --

4 Q Uh-huh.

5 A -- that register in that system.

6 Q So there are supplemental notes that you entered into
7 your system, even though we were using other phones or
8 conference calls?

9 A Yeah. I mean, for the most part, I left during a lot
10 of the conversations on the 11th.

11 Q Uh-huh.

12 A Or, excuse me, was it -- no, the 10th. I kept -- I
13 kept leaving the room, because there's more -- there's more
14 calls coming in on what was going on --

15 Q Uh-huh.

16 A -- with the purchase, so ...

17 Q During your testimony with Ms. Davidson yesterday
18 during -- after the video, excuse me, was played, you were
19 asked -- did you recall in that video that was played or during
20 our conversation, I should say, when I stated that you guys
21 would get the documentation of the full title --

22 A Correct.

23 Q -- origin of funds, history of funds, authority,
24 ownership, et cetera?

25 A That's right.

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1 Q Okay. And Ms. -- I believe it's exhibit -- I'm sorry
2 was it Ms. Davidson or Ms. Svolto that -- Ms. Svolto that asked
3 you, have you received any of that documentation?

4 A I have not.

5 Q Okay. And, in fact, the video or the recording, the
6 merged recording that the DOJ and FBI created was the one that
7 we watched, Exhibit 94 yesterday?

8 A Okay.

9 Q That very long one. You had stated that you didn't
10 receive any -- that video cut off prior to Lauren Palmisano --
11 Palmisano and Mr. Cohen giving their e-mails so that they could
12 receive the documentation. Isn't that correct?

13 A If Brad would have gotten the document, I would have
14 gotten the document. It's -- it's that -- I mean, I know it's
15 very hard to believe that a company these days is that tight.
16 It is that tight. So -- I've received no documents.

17 Q You've received no documents of -- other than the
18 Exhibit 105, the factualized trust?

19 A I received this from Randall. This was never scanned
20 or anything. Randall brought this in.

21 Q On July 11th?

22 A This one here would have been done on the 11th.
23 Correct.

24 Q Uh-huh. Just prior to the FBI showing up?

25 A Or, no -- yes, correct. It would have been -- well,

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1 probably within an hour and a half, two hours.

2 Q Uh-huh.

3 A Well, no, actually, probably a little less, about an
4 hour, yeah.

5 Q An hour?

6 A It probably would have been an hour, maybe an hour
7 and a half. I mean, I didn't look at the time or anything like
8 that, but ...

9 Q Okay.

10 A Randall went up to -- there was a couple things that
11 had to be done on the motor home, and he went up there, and I
12 believe Paul Chapman was our technician that was -- that was
13 doing the repair work on it.

14 Q Uh-huh.

15 A And he went up to the coach and then they came,
16 so ...

17 Q Okay. So Exhibit 105, David, I apologize for going
18 back, but 105, Page 1, can you read that?

19 A Can I read what, I'm sorry? Oh, Number 5?

20 Q Uh-huh.

21 A "Number 4" --

22 Q Number --

23 A Well, yeah, but you want me to read five, and it says
24 "Number 4," after Number 5, so ...

25 Q Uh-huh.

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1 A It says, "Number 4" --

2 THE COURT: I think she's just asking do you see
3 Exhibit --

4 BY MS. TUCCI-JARRAF:

5 Q If you can see it.

6 A I do.

7 Q And Exhibit 1 -- excuse me, Number 1 on there, who
8 does that identify?

9 A That's the manufacturer.

10 Q Uh-huh. Okay. And Number 2?

11 A Number 2 is -- that's the bill date of the unit that
12 we gained possession.

13 Q Uh-huh. And Number 3.

14 A Is the cost of the unit to Randall Beane Duly
15 Factualized.

16 Q It actually states on July 7, 2017, could you please
17 read that whole section in there?

18 A On what, Number 4?

19 Q Uh-huh. No, Number 3.

20 A Number 3, "On July 7th, 2017, Buddy Gregg Motor
21 Homes, LLC sold/transferred vehicle/property to Randall Keith
22 Beane Duly Factualized for \$493,110.68 evidenced by Purchase
23 Agreement Account Number" -- and the account number is his
24 customer number, Deal Number 10934 [sic].

25 Q Uh-huh. And Number 4, please.

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1 A Number 4, "On July 7th, Trustee, Randall Keith Beane,
2 tendered full payment of \$493,110.68 to Buddy Gregg Motor Homes
3 LLC by Wire Transfer from Randall Beane USAA Account Number
4 ending 0949, evidenced by USAA wire transfer confirmation
5 number," whatever that is, so ...

6 Q And that wire transfer confirmation number?

7 A Would have been probably 2017.

8 Q Is that consistent with -- Exhibit No. 51, please.

9 A Exhibit what, I'm sorry?

10 Q He's showing you Exhibit No. 1, the wire transfer --
11 51, excuse me. This wire transfer.

12 A See, we don't see this. As a dealership, we don't
13 see this.

14 Q True. But there's a wire confirmation number.

15 A I don't know where that would be, because I don't see
16 these.

17 Q Is that for the same amount, 493,110 -- excuse me,
18 493,110.68?

19 A Yeah. It's the same amount.

20 Q So back to Exhibit No. 105. Could you please read
21 number 5?

22 A "Number 4, restated, said funds tendered for full
23 payment, the originating account of initial transfer, and
24 account of origin with account number 1135, account name
25 Randall Keith Beane, and located at Federal Reserve Bank of New

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1 York, are lawfully and duly held in Original Factualized Trust,
2 reference Randall Beane, Original Due Declaration Of" -- I'm
3 sorry -- "Of Issue By Original Depository, with reference
4 number FT-OD-rkb-092967, inclusive of all UCC record numbers
5 therein, and Originally -- Original Due Declaration And Notice
6 Of Factualized Trust, reference name, Randall Keith Beane, said
7 restated and incorporated here by reference as if set forth in
8 full, never rebutted, 'Owner, Title, Rights, Trustee, Origin of
9 Funds, and History of Funds.'"

10 Q David, may I please have the next page?

11 A I'm sorry.

12 Q Oh, I was speaking with David to go ahead and bring
13 up the next page. And Number 6?

14 A "Number 5, restated, and the sole duly appointed
15 Trustee for Original Factualized Trust, is Randall Keith Beane,
16 Original Due Declaration Of Issue By Original Depository, and
17 Original Due Declaration And Notice Of Factualized Trust,
18 restated."

19 Q Okay. And Number 7, please.

20 A "Number 6, restated, and Trustee, Randall Keith
21 Beane, is the lawful sole administrator and executor, with sole
22 authority of said Factualized Trust, inclusive of said account
23 located at Federal Reserve Bank of New York, with said account
24 name, and said account number, and all value and funds located
25 therein, Original Due Declaration Of Issue By Original

UNITED STATES DISTRICT COURT

Jerald Byrne - Cross-Examination

1 Depository, and Original Due Declaration And Notice Of
2 Factualized Trust, restated."

3 Q And Number 8, please.

4 A "Number 7, restated, and said Trust, Randall Keith
5 Beane, did knowingly, intentionally, and willingly purchase the
6 property identified in number 1, above, restated, and cause the
7 funds identified in number 4, above, restated, to be duly and
8 lawfully paid to Jayco, Inc."

9 And that's wrong there. So --

10 Q And Number 9.

11 A "Number 8, restated, and said Trustee, did not
12 authorize, nor enact a request, demand, or return, directly nor
13 indirectly, for duly paid and transferred funds identified in
14 number 4, above."

15 Q Okay. And Number 10, please.

16 A "Number 9, restated, and Trustee, did duly and
17 lawfully receive the property identified in number 1 and 2,
18 restated."

19 Q And Number 11?

20 A "Number 10, restated, and said Trustee does verify
21 and confirm that a successful, legitimate, and lawful purchase
22 has been duly completed between the Factualized Trust, Randall
23 Keith Beane, and Jayco, Incorporated."

24 Q Okay. So that is a declaration validating the sale
25 and lawful and legal per your own reading in number --

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Jerald Byrne - Cross-Examination

1 A Our attorney would have told me that if -- if there
2 is anything that -- I don't read these.

3 Q Right.

4 A I have an attorney. I pay an attorney, and he reads
5 these.

6 Q Okay.

7 A So if he -- if he let this go through, he felt
8 confident with it. And if he did not feel confident with it,
9 it wouldn't have mattered, because we would have had to release
10 it anyway, because he already paid for the unit, so ...

11 Q And you received that document on the 11th. Correct?

12 A This document would have been received by Nelson
13 Forbes on the 11th.

14 Q Along with -- David can you please go to the next
15 page?

16 Along where the factualized trust document?

17 A Correct.

18 Q Thank you. So you did receive documents after our
19 conversation on July 10th?

20 A I didn't receive -- I didn't receive all the
21 information that you sent. This here was -- we already had a
22 copy of this. Okay. And we had a copy of this or it wouldn't
23 have been printed on the thing. So regardless what -- where we
24 go and what direction we go with this, I already had a copy of
25 something in order for it to go on this paperwork. So --

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Jerald Byrne - Cross-Examination

1 Q Did you -- did you read that factualized trust copy
2 that you claim that you received prior to July --

3 A I didn't read this one, so ...

4 Q You didn't read the other one?

5 A -- the answer would be no. I have attorneys that
6 read this stuff. I don't do that.

7 Q Do you claim that if Mr. Cohen had received any
8 further documentation that you would have received it also?

9 A I would have received it. If Brad got anything
10 from -- it doesn't matter who it's from. I receive things that
11 I would never need ever in my life from Brad because it
12 transfers over. If it has something that comes in indicated
13 for -- for any sales of anything, I get the document.

14 Q You get the document?

15 A That's right. Now, if it's a muffler, I don't get
16 the document.

17 Q Okay.

18 A You know, my service department gets that, and my
19 attorney gets this --

20 Q Okay.

21 A -- so ...

22 Q So anything Mr. Cohen gets, you get for Buddy Gregg?

23 A For sales, correct.

24 Q For sales. Okay. And in this instance, you're
25 saying you didn't receive any other documentation other than

UNITED STATES DISTRICT COURT

Jerald Byrne - Cross-Examination

1 these documents --

2 A The document that you --

3 Q -- 105?

4 A -- that you're referring to -- the -- you're opening
5 up a case, I mean, we'd have to go back to the -- to the video.
6 I did not receive any further documents besides -- and I've
7 already had a copy of this, okay, originally. So I have
8 received no further documentation than what I was originally
9 provided, except I asked for the original document, okay, so it
10 was protecting Buddy Gregg and it was protecting Randall Beane.
11 Okay. That's the only thing that I care about is the
12 customer --

13 Q Uh-huh.

14 A -- and my boss continuing to write me a check, so ...

15 Q Understood.

16 A That's it.

17 Q Okay. And are you aware of whether Buddy Gregg and
18 Whitney Bank have returned the actual wire funds or funds in
19 the amount of the wire to date?

20 A I have not.

21 Q You have not returned them?

22 A Well, I should say, if I -- if they would have been
23 returned, it would have been prior to -- or it would have been
24 after Monday morning at nine o'clock, so --

25 Q Monday morning, what date are you --

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Jerald Byrne - Cross-Examination

1 A Monday morning, this Monday morning.

2 Q Oh, this Monday morning?

3 A Correct.

4 Q And to the best of your knowledge, they haven't been
5 returned?

6 A That's right.

7 Q And all the paperwork that you and Mr. Cohen, in this
8 particular instance, have received, has all that paperwork. Is
9 that correct?

10 A I'm sorry?

11 Q You stated you have an attorney that goes through all
12 this paperwork, the factualized trust?

13 A Yeah.

14 Q The wire, the -- anything, you have an attorney that
15 actually does all that?

16 A Anything that creates a problem, my attorney has it.

17 Q Your attorney has it?

18 A That's right.

19 Q In this particular matter as well?

20 A Yes, he would have it.

21 Q Okay. Let me just check to make sure I don't have
22 any further questions for you, Mr. Byrne.

23 A Okay.

24 Q Oh, I do have a question.

25 A Sure.

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Jerald Byrne - Cross-Examination

1 Q When we were discussing on July 10th, you had -- we
2 were trying to figure out, obviously, on the video what was
3 going on. Isn't that correct.

4 On July 10th --

5 A Okay.

6 Q -- we actually initiated a call between all of us.
7 And, in fact, there was more than one call?

8 A That's right.

9 Q Okay. And that was to determine what was going on
10 with Whitney Bank saying that the money had been asked to be
11 given back?

12 A Correct.

13 Q Okay. And during our initial phone call, which was
14 not shown, there were -- which is why I called for a conference
15 call to be made between all of us, you had made a statement
16 that a man -- you had spoken to a man named True Brown?

17 A Correct.

18 Q And that he had identified -- you had told me he
19 identified himself as FBI. Isn't that correct?

20 MS. SVOLTO: Objecting to the hearsay, Your Honor.

21 MS. TUCCI-JARRAF: Your Honor, they testified that
22 FBI contacted --

23 THE COURT: Well, the objection is you're asking him
24 to talk about what somebody else told him.

25 MS. TUCCI-JARRAF: Okay. Let me rephrase the

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1 question.

2 THE COURT: Thank you.

3 BY MS. TUCCI-JARRAF:

4 Q Okay. You were contacted by a man named True Brown.

5 A Correct.

6 Q And who did you believe Mr. Brown worked for?

7 A At the end of the conversation --

8 Q At the beginning of your conversation.

9 A At the beginning, it was identified that he worked
10 for the FBI.

11 Q Okay. And by the end of your conversation?

12 A That he was a prior employee of the FBI. He is a
13 current investigator for USAA Bank.

14 Q And you told me all that information that day on
15 July 10th?

16 A I don't believe I let -- I don't believe I told
17 you -- I mean, that -- I believe our conversation was that
18 there was an investigator from USAA Bank, that I was under the
19 impression that he was from the FBI originally, and he
20 cleared -- he cleared up the idea that he was a prior FBI
21 agent.

22 Q And, in fact, the reason I asked for the conference
23 call with Lauren Palmisano of Whitney Bank, Buddy Gregg's bank,
24 and Mr. Cohen was because you had told me that someone named
25 True Brown from the FBI had contacted you and said that

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Jerald Byrne - Cross-Examination

1 Mr. Beane -- to confirm that the vehicle was still on the
2 property. Isn't that correct?

3 A No. We had the conversation with Lauren and Brad,
4 not for that purpose. We had the conversation to figure out
5 who was, I believe it was -- forgive me if I'm -- if I'm off
6 with the name, but I believe it was Donald -- Donald Parker,
7 Donald K. Parker or Dan K. Parker from USAA Bank had called and
8 said he wanted his money back.

9 Q In fact, on that day, there were multiple people that
10 had called?

11 A Oh, yeah.

12 Q That's why it was so confusing and why we got onto a
13 phone call and conference call in the first place. And on the
14 first call, it was just you, me, and Mr. Forbes. Is that
15 correct?

16 A No. The first call was myself, you, Don Forbes,
17 Randall Beane, and some other gal that -- forgive me, I don't
18 know her name.

19 Q You don't know who that was?

20 A I don't know her name. She wasn't with me. She was
21 with Randall.

22 Q Okay. Okay. In fact, you had told me that Dan
23 Parker from USAA had contacted you guys, saying that,
24 number one -- or somebody had called --

25 A Dan -- I think it was Donald or Dan K. Parker called

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Jerald Byrne - Cross-Examination

1 Whitney Bank, also called Nelson Forbes.

2 Q Right.

3 A And requested the money back from USAA -- for USAA.

4 Q Saying that Randall Beane had -- had ordered that the
5 money be sent back?

6 A No. No. He said that it was -- I mean, everything
7 was brought up as a scam. I mean, that's how -- that's how it
8 was presented.

9 Q That who presented that to you?

10 A USAA and True Brown and Donald or Dan.

11 Q Uh-huh. And you said that you had talked that day of
12 a Jaron Patterson. Who was Jaron Patterson to the best of your
13 knowledge?

14 A He -- he was actually an FBI agent.

15 Q He identified himself as an FBI agent?

16 A He called me from the FBI building, so --

17 Q And was that before or after our conversation that we
18 watched from Exhibit 94 yesterday? Do you recall?

19 A No, I -- it was after. It was after, because the
20 conversation with True Brown was prior to -- to Mr. Patterson.

21 Q Uh-huh. And you actually provided me with True
22 Brown's number that he had given to you on the 10th?

23 A I don't recall, but I -- I most likely would have.

24 Q Uh-huh. You also gave me Dan Parker's number?

25 A No.

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1 Q On the 10th?

2 A No. Nelson Forbes would have given you his number.

3 Q Right. During the conference call. We were actually
4 trying to get Mr. Parker on the phone.

5 A I believe it was when you were speaking with Lauren.
6 Well, no, I got -- I called Mr. Parker from my office with --
7 the problem we had is, it can't accept -- you can't have three
8 people on the line. Because USAA cannot process, and not only
9 that, at that stage, they wouldn't have believed Randall,
10 myself, or you, so, you know, because it was, you know --

11 Q Right.

12 A It was just a little -- little --

13 Q Suspicious?

14 A -- little -- well, that, and a little more drama
15 they're used to dealing with without being face to face. You
16 know what I mean? It's something they don't -- they're good to
17 their customers. They don't care about you and they don't care
18 about me. They care about Randall, and that's the only person
19 they care about.

20 Q Which is why Randall said he was headed to Texas and
21 picking up the vehicle on the 11th.

22 A I don't remember Texas. I remember west. I don't
23 remember Texas. I don't remember -- I remember him saying
24 something about Seattle, and I don't know why I remember that
25 as well as I do, but it kind of registers in the memory bank.

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1 But I remember he wanted to spend 300 days on the road, and he
2 wanted to head out west.

3 Q Right. That was prior to the July 10th conference?

4 A That's right.

5 Q So that's prior to, but on our conference call that
6 we had stated that he was going to come to Texas so he could
7 clear all this up at San Antonio headquarters of USAA.

8 A Now, I may have not been in that part of the
9 conversation. I was continuing to get phone calls from other
10 people in reference to this deal, so ...

11 Q And who were you getting phone calls in reference to?

12 A I got a couple from -- someone from USAA that I
13 missed. I got a 504, which I'm assuming is going to be Whitney
14 Bank. I've got Brad kind of blowing up the phone. I mean, it
15 was a lot going on.

16 Q Yeah. Brad Cohen?

17 A Correct.

18 Q And so that was prior to Brad and Lauren Palmisano
19 getting on the phone with us on July 10th?

20 A Correct.

21 Q So that was our first phone call that we had had,
22 because it's not very clear from Exhibit 94 that DOJ and FBI
23 put together that there was actually more than one phone call
24 between all of us that day?

25 A Well, no. There was one phone call. I believe you

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1 got -- everything was done on Randall's phone. Then Brad
2 called in and somehow attached you guys, and you're operating
3 off of Brad's -- Brad wound up contacting everybody and getting
4 everybody on the line. I left for that to go and discuss --

5 Q You were not present?

6 A In and out.

7 Q And that was the second phone call that Brad had
8 called us from his phone and not from --

9 A I only remember one phone call Brad calling anybody,
10 and if something happened without me in the room, that's highly
11 possible, but there's one call that was made. We couldn't get
12 a way to get everything on the thing. And not only that, you
13 don't dump something on Brad without warning Brad that you're
14 dumping it on him. So that's kind of the way we handle things
15 there.

16 Q So you're stating you weren't there for the phone
17 call --

18 A I was there for part of it.

19 Q -- when Lauren was there?

20 A Lauren, no. Lauren was in Louisiana.

21 Q Excuse me. When Lauren Palmisano from Whitney Bank
22 and Mr. Cohen were on the phone with us, you're stating that
23 you don't -- you weren't present --

24 A Not for --

25 Q -- to hear --

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Jerald Byrne - Cross-Examination

1 A -- the entire conversation.

2 Q Okay. But you did hear Ms. Palmisano on the phone
3 with us?

4 A Part of it, correct.

5 Q Okay. And you stated you had spoken with Jaron
6 Patterson after our phone call on July 10th, sometime after our
7 phone call on July 10th?

8 A Yeah. One or two times, yeah.

9 Q On the same day of July 10th?

10 A No. On July 10th, I heard from him once.

11 Q Uh-huh.

12 A On July 11th, one or two times.

13 Q One or two times. And the one on July 10th, were you
14 instructed to do anything?

15 A I instructed him. I mean, he asked questions. Until
16 I can verify who somebody is, I'm not giving any information of
17 Randall's to anyone. I'm not letting anybody -- I mean, we
18 protect the client. It's about the client. And we protect
19 Buddy Gregg.

20 Q So was that phone call initially with Mr. Patterson
21 on July 10th, you just trying to confirm he was who he said he
22 was?

23 A Yeah. I would have liked to have actually identified
24 somebody that was truly who they said they were. I mean, you
25 can't tell anything over a phone, you know, and -- you know,

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1 it's -- you know, that's the biggest -- but it was pretty easy
2 to find out that he actually, truly was who he was.

3 Q And who -- how did you do that?

4 A I Googled. I didn't even know we had FBI in
5 Knoxville, so I Googled that first. And then went through and
6 called and questioned and got down to the safe bet that
7 Mr. Patterson actually existed.

8 Q So he was listed in the FBI website?

9 A I don't know if he was listed on the website or if I
10 just called and questioned -- you know, explained that somebody
11 is calling me indicating they're from the FBI, and I'd like to
12 make sure that the person actually exists.

13 Q Were you taking extra precautions because of what had
14 already happened with True Brown?

15 A Yeah. Because I didn't know -- I didn't know -- at
16 this stage, I didn't know if you were real, if Randall was
17 real, who was -- I just -- I mean, it wouldn't have mattered.

18 If -- at that stage -- and this is what everybody has
19 to understand. If at that stage I found out Randall was -- was
20 a criminal, I found out that True Brown was a criminal or
21 anybody else was, it did not matter.

22 The money was in the account. He was an owner. He
23 had signed the documentation, got himself -- could have come in
24 there to take this motor home and I could not release it to
25 him. Okay. And that's it. That's how that happened. It

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1 didn't matter, he had ownership of that motor home.

2 Q So you took all the steps that you felt were
3 required --

4 A Every single one.

5 Q -- within your experience to protect Randall as a
6 client until proving different as well as Buddy Gregg?

7 A Correct.

8 Q Okay. And what is the name of your attorney that
9 would have had all the documentation -- you stated -- let me
10 rephrase this. Strike that. You stated that all the
11 documentation regarding this entire sale was given to your
12 attorney to be able to review?

13 A Correct. That would have been in July. That would
14 have been on July 10th. And it would have been sent over to
15 Howard Jackson, which is right down here somewhere in the Bank
16 of America building, yes.

17 Q Is that your personal attorney or the attorney for
18 Buddy Gregg?

19 A No. He's our attorney for Buddy Gregg.

20 Q For Buddy Gregg. Did you also give that -- all this
21 documentation over to Lauren Palmisano or anyone from Whitney
22 Bank?

23 A No. Brad would have -- Brad would have done that.
24 If there was anything that was sent to her, it would have been
25 done through corporate office.

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Jerald Byrne - Cross-Examination

1 Q Which is Mr. Cohen?

2 A Mr. Cohen.

3 Q And his staff?

4 A Yeah. Correct.

5 Q Okay. And after reviewing all that documentation,
6 Buddy Gregg, you were told by your attorney that Buddy Gregg
7 still has the money?

8 A I was told by Brad. He --

9 Q By Mr. Cohen?

10 A Yeah. Everything goes from myself to Brad to Howard,
11 and then Brad calls me and tells me what he wants me to do.

12 Q It was Mr. Cohen that told you Monday, this Monday,
13 that the money -- that the --

14 A No, no, this Monday, I checked our accounts.

15 Q You checked your accounts?

16 A Correct.

17 Q And the money is still there?

18 A It -- it reflects that it is, yes.

19 Q It reflects that the money from Mr. Beane's sale
20 is --

21 A No. It reflects on the balance that nothing drastic
22 has came out of my account that I don't know about, so --

23 Q Okay. Thank you. Were you present on July 11th to
24 be able to witness the FBI approaching Mr. Beane?

25 A I was -- I was on premise. I didn't chase him down.

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Jerald Byrne - Cross-Examination

1 Q So you had -- you didn't -- not see anything that
2 occurred?

3 A No. I -- I seen part -- I seen parts of what
4 happened. But I -- I was called to come up to -- we have two
5 separate locations. We have -- well, not separate locations.
6 The same thing. But the shop is up top. It's not visible from
7 my office. I seen them come in.

8 Q Come in where?

9 A They kind of blocked off the driveways and came on up
10 through. And, you know, did -- did what they did. I didn't --

11 Q What did you see them actually do?

12 A I seen them run towards the -- towards the motor
13 home.

14 Q Did they have weapons drawn?

15 A Well, I mean, they didn't have them aiming at
16 anybody. They had them with them.

17 Q No. Did they have them out of their holsters?

18 A All I saw is -- is -- I mean, they didn't have -- I
19 guess they were just -- I mean, it's like any other type raid.
20 They didn't have -- you can't holster a gun, you know.

21 Q They had a shotgun?

22 A It wasn't a shotgun. It was a --

23 Q How large was the gun?

24 A Couple I seen, probably, I don't know, I mean -- I
25 don't know what kind it was, but I mean, I assume it's --

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Jerald Byrne - Cross-Examination

1 Q Can you show us with your hands?

2 A Probably something like that, I guess.

3 Q So, like, what is that three feet, four feet?

4 A I mean, somewhere in that area.

5 Q Okay.

6 A I didn't see any -- you know, I didn't see any --
7 there were people coming up the side. We have two separate
8 driveways. I didn't see anything on the shop side. I seen
9 people running up the hill on our side --

10 Q Right.

11 A -- on the sales side. And, you know, it kind of
12 happened pretty quick, so I didn't get a real good visual. The
13 only other thing that I had anything to do with was to go up
14 and check on our staff. That was what I was asked to do,
15 so ...

16 Q So when you saw them approaching the vehicles with
17 these -- these, what, three to four feet -- foot guns, did you
18 see them actually touch the vehicle?

19 A They weren't -- it wasn't anywhere near Randy. It
20 was on the backside of --

21 Q Oh.

22 A They -- they came in on one side. They didn't really
23 have a good layout of our dealership. I mean, it wasn't
24 like -- I don't think they had a plan, you know, at the time
25 to -- you know, like they had weeks to plan it out or anything.

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Jerald Byrne - Cross-Examination

1 They just came in and did what -- you know, did what they felt
2 best to keep everybody safe.

3 Q Are you able to draw for us just sort of a general
4 map, so that we can understand where the --

5 A Sure.

6 Q May I? Is there a piece of paper that he could have
7 and a pen to be able to draw?

8 A If you could just imagine a horseshoe. You know, a
9 horseshoe, it goes -- our initial driveway come in. And to get
10 towards the shop, you go up and around, and to go back out, you
11 go back down and out. The two driveways are probably 240 feet,
12 225 to 240 away from each other. One goes up into the shop.
13 One goes up in, you can go this way to the right, to the sales
14 department. You can go this way to go up to the shop and the
15 parts department.

16 Q How big is Buddy Gregg property?

17 A 22 acres.

18 Q 22 acres?

19 A Yeah.

20 Q How far from the entrance of any of the entrances to
21 the property is it to these buildings?

22 A From the -- calling the shop entrance Entrance 1,
23 it's probably 175 feet to the shop.

24 Q I'm sorry. Could you please draw just a general map.

25 A Yeah, I don't --

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Jerald Byrne - Cross-Examination

1 Q I'm not sure where the shop is versus this horseshoe
2 so that the jury and myself and Mr. Beane could actually
3 understand what went down.

4 A I haven't been known for my artistic ability.

5 Q Just an accurate representation as far as
6 measurements and to scale, we're just looking for an idea so we
7 can picture it.

8 THE COURT: Go ahead and switch over to the screen
9 and put it on the screen, Ms. Tucci-Jarraf. We'll mark this as
10 Defendant's Exhibit 1.

11 MS. TUCCI-JARRAF: Actually, at this moment, would it
12 be possible to take a short recess so I can speak with the
13 clerk so I know exactly how to --

14 THE COURT: Well, I think just put it on the screen.
15 Let's see if we can keep going. Go ahead and put it on the
16 screen.

17 MS. TUCCI-JARRAF: Can you see that?

18 THE COURT: Everybody can see it? Is that the map
19 you drew, Mr. Byrne?

20 THE WITNESS: Yeah. Yeah.

21 THE COURT: All right. Why don't you just orient us
22 on the screen?

23 THE WITNESS: The three, if you look to the far
24 bottom right, there's -- you'll see, that's the -- that's
25 the -- we'll call that -- I guess we'll call that Driveway 2.

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Jerald Byrne - Cross-Examination

1 BY MS. TUCCI-JARRAF:

2 Q Which one, I'm sorry?

3 A Far bottom right.

4 Q Far bottom right?

5 A Yeah. It's from the end -- that's right. From the
6 end of the driveway to the top of the shop where you park is
7 about 300 feet. You see as it goes around the building, that
8 little shop, or that little sales office right there?

9 Q Okay.

10 THE COURT: Point -- when you say right there, you
11 can touch the screen.

12 A Okay. Right here, that's the sales office. Terrible
13 drawing, but forgive me.

14 BY MS. TUCCI-JARRAF:

15 Q Okay.

16 A Okay. It goes 300 feet around to the parking area
17 behind the sales building.

18 You can see the roadway loops around and goes back
19 down so you can go back out the other side. There's a roadway
20 here that goes up the side that goes from the sales to the
21 shop, so we can take golf carts out where you can drive motor
22 homes, so you can do whatever you want to do through there.

23 The FBI blocked off this area, they blocked off this
24 area.

25 This from here up through to the shop is about

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1 250 feet, and the furthest point that anyone is allowed beyond
2 is right there where there's a stop sign, and we have a lot guy
3 that will stop you from going through there.

4 There's a campground over here, kind of goes
5 around -- good God, this is terrible. Right there.

6 And the shop is -- it's 24 bays, 13 feet per bay.
7 Somewhere in the vicinity of 275 feet.

8 There's also a body shop over here, which does not
9 look like that at all, so ...

10 Q So that's the body shop that you just drew, that's a
11 separate building from the main shop of 24 bays?

12 A It is. It's 32 feet from the edge of the shop to the
13 body shop.

14 Q And where would -- where was the RV -- Mr. Beane's RV
15 at this point?

16 A Right here.

17 Q Right --

18 A I'm sorry?

19 Q Right in front of the shop?

20 A Well, it's -- it's -- yeah, it's in front of the
21 shop. Here's the -- oh, man, this is --

22 Q Could you draw just a square or something so we can
23 tell the difference?

24 A Yeah. If my finger wasn't so big, I could probably
25 do a pretty good job of it. Yeah, I can't. Yeah, it's not

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1 that big either, and it doesn't look like that either.

2 So it's actually lengthways in front of the shop.
3 It's -- the little stick indicator did better. It's right
4 there, right where the O is, down below the O is where the
5 office is for the shop.

6 Q Could you perhaps put a -- write RV, if you can right
7 next to that square just so that we --

8 A You can't. You can't. It's going to -- try it
9 yourself. Right there.

10 Q I will.

11 A Give it a roll. Give it a roll. You got small
12 fingers and you can --

13 Q Just fingernails, is that right, for touching the
14 screen?

15 A Pretty good, huh?

16 THE COURT: Someone wrote "RV."

17 THE WITNESS: That wasn't me.

18 THE COURT: Is that where the RV was?

19 THE WITNESS: No. The RV was over -- well, now it
20 looks like a truck -- right over by the -- between S and the O.
21 That's where the RV was. But it was parked lengthwise. It
22 wasn't parked widthwise. It was parked lengthwise.

23 So they simply come in. I don't know if you can --
24 they come in and they blocked this right here. See where my
25 finger is moving at the bottom? They block there. They

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1 blocked there. Nobody can get in, nobody can get out.

2 BY MS. TUCCI-JARRAF:

3 Q Okay. Those are the only two entrances and exits to
4 the property?

5 A Well, out in the woods there's some, but nobody is
6 going through with an RV.

7 Q Would it help if -- because I have a red pen here.

8 THE COURTROOM DEPUTY: Don't draw on --

9 MS. TUCCI-JARRAF: Don't draw on it? Just color in
10 the box. Oh, on the piece of paper.

11 THE COURT: Why don't we do this, we'll go ahead and
12 take a break and --

13 MS. TUCCI-JARRAF: Thank you.

14 THE COURT: If the attorneys and defendants present,
15 if you need to talk with the witness and you want to get a
16 diagram, that's fine. So let's take a recess.

17 (Jury out at 10:44 a.m.)

18 THE COURT: As I mentioned, we'll take a recess.
19 Mr. Byrne can stick around. He could maybe during the break
20 could draw a few things on his drawn map.

21 But, also, the courtroom deputy may try to print out
22 a Google Map, so you may be able to use that as well for this
23 testimony.

24 So why don't y'all figure that out over these 15
25 minutes. Give Mr. Byrne time for a break as well. But if you

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1 could hang around for a few minutes, they may want you to
2 confer. Just make sure everybody does it right here in the
3 well. Thank you.

4 THE COURTROOM DEPUTY: This honorable court shall
5 stand in recess till eleven o'clock.

6 (Recess from 10:45 a.m. to 11:11 a.m.)

7 THE COURTROOM DEPUTY: This honorable court is again
8 in session.

9 THE COURT: All right. We're going to bring our jury
10 back in.

11 (Jury in at 11:11 a.m.)

12 THE COURT: All right. Thank you. Everyone may be
13 seated.

14 Ms. Tucci-Jarraf, you may continue.

15 BY MS. TUCCI-JARRAF:

16 Q Thank you. Without prejudice, I will continue.

17 Mr. Byrne?

18 A Yes, ma'am.

19 Q Okay. You've received a Google printout from the
20 clerk?

21 A I did.

22 Q Prosecution has a copy and Mr. Beane has a copy.

23 A You probably want to turn that around.

24 Q Okay.

25 A Much better.

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1 Q So this was printed by the clerk. Is that an
2 accurate representation of the 22 acres?

3 A Pretty close, yeah. Yeah.

4 THE COURT: This will be Defendant's Exhibit 2. You
5 can put a sticker on afterwards.

6 MS. TUCCI-JARRAF: Afterwards. Okay.

7 Excuse me, which one is showing, this one or -- can I
8 write on it up here and it will show?

9 THE COURTROOM DEPUTY: Yes. That's correct.

10 BY MS. TUCCI-JARRAF:

11 Q Okay. So, Mr. Byrne, the exits that you had drawn on
12 Defendant's Exhibit No. 1, is that up here in the right-hand
13 corner off of Snyder Road?

14 A It's off Snyder Road. Correct.

15 Q Okay. So this right here -- and I'm marking it in
16 red. Can you see that?

17 A Yep.

18 Q Is that where that first blockade --

19 A That's right.

20 Q Multiple law enforcement blockade was?

21 A Well, yeah.

22 Q Okay. And then the second entrance, because it looks
23 like there's three here?

24 A There's only two.

25 Q Okay.

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Jerald Byrne - Cross-Examination

1 A You have what they have indicated as Herron Road.
2 It's not really Herron Road, but they still somehow show it.
3 That's the first entrance. The second entrance is over here,
4 the little yellow line there. That's Number 2.

5 Q So that's Number 2. So what is the one to the left
6 of that? What is that?

7 A To the left of it?

8 Q Or is that just fenced off?

9 A Oh, that's all fenced off, yeah.

10 Q Okay.

11 A You mean -- I'm sorry, you mean here?

12 Q Yeah.

13 A That's just an emergency exit in the event that
14 something happens to the gate and there's a fire, we can get
15 all the people out of the campground.

16 Q Okay. So that's an emergency -- so these -- the one
17 you marked in yellow and I marked in red --

18 A Correct.

19 Q -- those were the two gates you were showing on the
20 first time?

21 A That's right.

22 Q Okay. Perhaps now you can go ahead and identify --

23 A They actually have this -- where this motor home is
24 right here --

25 Q Uh-huh.

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1 A -- that's where Randall's motor home was.

2 Q Okay.

3 A That's Bay 17. That's the only thing wide enough to
4 take 45 feet with four slots.

5 Q So on here where they had the blockades, did they
6 have any officers inside on the property --

7 A Yes.

8 Q -- where the blockades -- how many officers do you
9 think were at each --

10 A I seen -- I seen probably two or three here, you
11 know, on what they have indicated as Herron Road. We shut our
12 blinds because we had customers in our office.

13 Q Shut the blinds?

14 A Yeah. So --

15 Q Could you just mark with an X where you think the
16 officers were and approximately how many?

17 A There's three between -- between -- three or four
18 that I seen between -- now I can't do Xs very well on this
19 thing either. There we go. Between there --

20 Q Three or four?

21 A -- and here. And then there's plenty over here.

22 Q Plenty over where?

23 A Well, I mean, over -- this is where the majority --
24 right where Randall's coach is was where the majority -- you
25 know, the fun was happening. This down here. I mean, they

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1 just stopped it so people couldn't -- they didn't want people
2 to get involved. So they sent people up in here to keep
3 customers and keep other people safe.

4 Q When you say "up in here" --

5 A Where I put that second X right here.

6 Q The second X?

7 A Yeah. They came up through here, and they cleared
8 this going down so people would not get involved in anything
9 going on over here.

10 Q And that's to the right-hand corner of the shop. Is
11 that correct?

12 A Oh, yeah. That's actually the parts department.

13 Q The parts?

14 A Yeah, it's attached. This part right here --

15 Q Uh-huh.

16 A -- over is parts.

17 Q Okay. So I'm going to -- hold on a second. This is
18 the --

19 A What's that?

20 Q Hold on. My finger is marking it instead of the pen.
21 I'm just going to put a P for the parts department so we know.
22 Right there, that yellow mark?

23 A Yeah.

24 Q Okay. And so you had FBI where those two Xs are and
25 at the entrances?

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1 A Yeah. And they're proceeding to go to where
2 Randall's coach was.

3 Q And did you -- were you able to see Randall's coach
4 from your --

5 A No. My office is where this X is going right here.
6 That's my office.

7 Q That's your office?

8 A Yeah.

9 Q So the officers that you saw were the -- with the
10 weapons, those were the ones that you -- were in plain sight of
11 your office?

12 A Yeah. I just seen people going up over the hill
13 to -- you know, I -- I can only assume it's to make sure that
14 no one leaves or -- or gets hurt along the way. I mean,
15 they --

16 Q Okay. So at that moment when you saw that activity
17 going on --

18 A I closed my blinds.

19 Q You closed your blinds. And did you order everyone
20 in your office to close their blinds?

21 A I told everyone to stay where they were and not to
22 leave the building.

23 Q So prior to law enforcement and all these guns coming
24 in on the property, you had a phone call prior to that from --
25 from law enforcement?

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1 A Yes. Right before Randall -- right before Randall
2 finished off in my office -- see, all of our conversations, the
3 conversations that I had with you and Randall were right here.

4 Okay. Randall came in the front door, and he was in
5 the thing when I got my call from the FBI asking me questions.

6 I said I wasn't expecting Randall that early. You
7 know, Randall was coming in to go up and take his coach. I
8 figured he was an hour, hour and a half out, and then all of a
9 sudden he was there.

10 They're asking me questions.

11 And I said, you know, "I'm finishing delivering up
12 the unit. It's being delivered here shortly. You know, so if
13 there's anything that you need to do or you need to speak to
14 him, you may want to speak to him, because he's going up here
15 to get his coach and he's leaving."

16 Q Okay. Did you contact them?

17 A No. I got a call.

18 Q You got a call from them?

19 A Correct.

20 Q Saying that -- and you told them Randy was in your
21 office?

22 A No, they're just -- well, Randy wasn't in my office
23 yet. Randy was out in the lobby. I was already speaking with
24 them.

25 Q Uh-huh.

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1 A And Randy just happened to come in. And when he came
2 in, you know, I indicated that whatever you need to -- you
3 know, if you guys have discussions you need to have, you may
4 want to do it. I can't detain him. He owns the coach, so ...

5 Q Okay. And how long had you approximately been
6 talking to them before Randy came in?

7 A Two, three minutes. There's never any long
8 conversation.

9 Q And you had stated earlier in our cross-examination
10 here that you had spoken to them twice on the 11th, once on
11 July 10th and then twice on July 11th?

12 A It was once on the 10th, twice on the 11th.

13 Q Right. So you had a phone call with them prior to
14 this phone call when Randy came in?

15 A I had a phone call when -- right as Randy was going
16 into the office. I, you know, just said that, you know, it
17 would be just a couple minutes to finish the conversation, and
18 he came in the office. We spoke with him for anywhere probably
19 25, 30 minutes in our office.

20 I got a call directly afterwards, asking if the coach
21 was still on premise. I said it was. They said they were
22 coming to -- to do whatever they were going to do, so ...

23 Q That was the first phone call that day?

24 A No. That was the second. They were within -- they
25 were within a half hour of each other. The first one was when

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1 Randy first showed up. The second one was probably six minutes
2 after he left my office.

3 Q Uh-huh. So 25 to 30 minutes between these two phone
4 calls?

5 A Yeah.

6 Q And both of those phone calls were initiated by
7 someone claiming to be the FBI or was the second --

8 A Well, I was pretty confident he was FBI. That's the
9 one that I --

10 Q Oh, was that Mr. Patterson?

11 A It was Mr. Patterson.

12 Q Okay. Someone that you had already gone through
13 the -- to vet that he actually was who he said he was?

14 A Correct.

15 Q So who initiated that second call?

16 A Both was initiated by the FBI, not by me.

17 Q Okay. And both times, Mr. Patterson was that --

18 A Correct.

19 Q And why was Randy there that morning?

20 A He was -- he had -- I'm trying to think if there was
21 something else that we had missed with a signature or not.
22 I -- I know that we went over the -- on the 11th we went over
23 the -- the trust. Don -- Nelson Forbes went over the trust
24 with -- with Randy.

25 Q Would that be the Exhibit 105 that you and I had gone

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Jerald Byrne - Cross-Examination

1 over earlier?

2 A Correct.

3 Q That's the paperwork that Randy --

4 A That was the one with the red dye, that was the one
5 that we -- was what we went over.

6 Q And he actually borrowed your copier so that he could
7 make copies of it?

8 A Correct. That's right.

9 Q In your office in that --

10 A No, not in my office. It was in the hallway.

11 Q In the hallway?

12 A Yeah.

13 Q So that was approximately -- do you remember what
14 time?

15 A You know, I -- it was -- it was probably close to --
16 back up about -- about 45 minutes from the time he got
17 arrested, that's about when it was. So it was within -- it was
18 within probably one to three area in the time frame.

19 Q A one what?

20 A One to about three. It -- I can't give you much
21 closer than two hours, because, I mean, I can't --

22 Q Okay.

23 A -- tell you what time of day it was --

24 Q You believe the whole -- from Randy showing up to the
25 time that law enforcement came in and started blocking things

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1 off was approximately how long?

2 A It was within a two -- well, it was within -- it was
3 within probably the hour of him showing. He went up and
4 Randall went up and went over a couple items with Paul Chapman,
5 one of our -- one of our techs, and at that stage it just kind
6 of all unfolded.

7 Q And how were the rest of the -- you said you had to
8 calm people down --

9 A No.

10 Q -- during the event or told people to stay inside?

11 A We just told -- we didn't want the customers, nor --
12 I don't want anybody involved in that. I mean, we -- I -- I
13 didn't want it for Randall, I didn't want it for us, I didn't
14 want it for the FBI people. We just -- that just doesn't
15 happen to Buddy Gregg.

16 Q Were people trying to go outside to see what --

17 A People were -- yeah. It's kind of like anything.
18 They -- everybody gets curious about what's going on, and next
19 thing you know, you have somebody hurt or somebody, you know --

20 Q How did you explain that to your clients?

21 A Sit down, don't go outside.

22 Q That's all the comments you made?

23 A That's all you had to make, yep.

24 Q Okay. Did anyone help you in preparation for your
25 testimony here today?

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Jerald Byrne - Cross-Examination

1 A No. We just went over, you know, each exhibit. I
2 mean, nobody told me to say something or --

3 Q Who did you go over your -- in preparation for your
4 testimony? Who specifically?

5 A These two folks here.

6 Q Ms. Davidson and Ms. Svolto?

7 A Correct. That's right.

8 Q Anybody else in this room from law enforcement?

9 A We have -- forgive me, I'm sorry, gentleman back
10 there, he was -- both gentlemen, they came in to --

11 Q Who is that gentleman?

12 A You got to forgive me. I'm not --

13 Q This gentleman --

14 A -- great with names.

15 Q -- with the glasses?

16 A Him and the gentleman before him, right there.

17 Q And FBI Agent Durand?

18 A Yes. Correct.

19 Q I'm sorry I don't know.

20 MR. PACK: I'm Special Agent Jason Pack.

21 MS. TUCCI-JARRAF: Jason Pack?

22 MR. PACK: Yes, ma'am.

23 BY MS. TUCCI-JARRAF:

24 Q And I have one last question here, who's the finance
25 manager for Buddy Gregg?

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1 A At the time of this, it was Daron Walker.

2 Q Derek?

3 A Daron.

4 Q Daron Walker.

5 A D-a-r-o-n, Daron, Daron. And it was Walker.

6 Q And how long has he been with Buddy Gregg?

7 A He was there for a short period.

8 Q How short of a period?

9 A Less than 90 days.

10 Q What was his last day? Do you know, approximately?

11 A It would have been -- it would have been somewhere --
12 somewhere around school time, because he brought his daughter
13 back to North Carolina to put her in school.

14 Q September?

15 A Early September.

16 Q Early September, possibly end of October -- or
17 August?

18 A No. It was in September.

19 Q Okay. And where did he work before working for Buddy
20 Gregg?

21 A Camping World of North Carolina.

22 Q How long had he worked there prior?

23 A I believe two or three years.

24 Q His father had owned the Camping World?

25 A I'm sorry.

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Jerald Byrne - Cross-Examination

1 Q He had worked there for approximately two to three
2 years, his father had owned that?

3 A No. No. That was -- no, Camping World was owned by
4 one person. That's -- Tom Johnson owned it prior to Camping
5 World. But Daron's dad didn't own it.

6 MS. TUCCI-JARRAF: Okay. I have no further questions
7 at this time.

8 THE COURT: Thank you.

9 MS. TUCCI-JARRAF: But I would like to -- how do we
10 save this with the markings on there. If you can get it back
11 to where it was.

12 Does that look accurate?

13 THE WITNESS: It's pretty close.

14 THE COURT: Got it, Julie?

15 THE COURTROOM DEPUTY: Yes, sir.

16 THE COURT: So Defendant's Exhibit 1 will be the
17 hand-drawn -- hand drawings. Defendant's Exhibit 2 will be the
18 plain copy of the Google Map. Defendant's Exhibit 3 --

19 THE COURTROOM DEPUTY: 2A.

20 THE COURT: -- or 2A will be the Google Map with the
21 markings on it.

22 Thank you, Ms. Tucci-Jarraf.

23 (Defendants' Exhibits 1, 2, 2A admitted into evidence.)

24 THE COURT: Ms. Svolto, redirect?

25 MS. SVOLTO: Yes, please.

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Jerald Byrne - Redirect Examination

REDIRECT EXAMINATION

BY MS. SVOLTO:

Q How are you doing, Mr. Byrne?

A I'm good. How are you?

Q I'm good. So if we could switch to the -- thank you.

So on which date did Mr. Beane first arrive to Buddy

Gregg?

A My paperwork indicates the 6th.

Q Okay. And when he came, he picked out a motor home.

Right?

A That's right.

Q And did you draw up purchase agreement documents?

A We did.

Q All right. Could we go to Exhibit 123, please.

Were these the original documents that you drew up?

A That's the original.

Q And you drew those up on which date?

A The 7th.

Q If we could highlight the 7th.

All right. And whose signature there by the dealer

manager?

A That actually was printed up by Daron Walker.

Q Okay. And the buyer's signature there?

A Is Randall Keith Beane.

Q And the date of those signatures?

UNITED STATES DISTRICT COURT

Jerald Byrne - Redirect Examination

1 A Both have 7/7.

2 Q Okay. And now if we could have Exhibit 100.

3 All right. Is this a new purchase agreement

4 document?

5 A That's a -- that's the final of three.

6 Q Okay. And so there was a second one in between these

7 two?

8 A Correct. It would have had actual Randall Keith

9 Beane instead of Randy Beane.

10 Q Okay. So there was a Randy Beane purchase agreement

11 and then a Randall Keith Beane purchase agreement?

12 A Correct.

13 Q And then there was this agreement?

14 A Correct.

15 Q All right. If we could go to the top where it says

16 "Buyer" and "Address."

17 All right. And so this is -- it says at the "Buyer,"

18 what does it say there?

19 A "Randall Keith Beane Duly Factualized."

20 Q And so as the date there is also July 7th?

21 A It is.

22 Q All right. And so that would indicate that this

23 document was prepared on July 7th?

24 A Correct.

25 Q And it was prepared at whose request?

UNITED STATES DISTRICT COURT

Jerald Byrne - Redirect Examination

1 A It would have been at Heather and Randall's request.

2 Q Okay. So after the second, after the first document
3 was prepared that said Randy Beane --

4 A That's right.

5 Q -- at what point did you learn that there was a
6 change requested?

7 A In the beginning when he was speaking with Dan
8 Lassetter, he said that there was -- there's a possibility of
9 something -- of something changing.

10 Dan is my salesperson. He kind of indicated that it
11 may -- you know, that he was speaking with his attorney or his
12 consultant to determine whether or not it was going to be put
13 into a trust name.

14 Q Okay. So, initially, there were documents filled out
15 that said Randy Beane?

16 A That is right.

17 Q And then when was it determined to be put in Randall
18 Keith Beane Duly Factualized?

19 A That would have been after he -- Randall had had a
20 discussion with Heather.

21 Q Okay. And what date was this document prepared?

22 A That's on 7/7.

23 Q And is it your recollection that he provided trust
24 documents at the time he requested this change?

25 A That's right.

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Jerald Byrne - Redirect Examination

1 Q And that would have been on July 7th as well?

2 A Correct.

3 Q All right. Could we go to the signature line. And
4 so is there a dealer manager signature there?

5 A That's Daron Walker.

6 Q And also dated July 7, 2017?

7 A Correct.

8 Q And buyer, there's a signature there?

9 A There is.

10 Q Is that consistent with all the other signatures you
11 received on these documents --

12 A Absolutely.

13 Q -- for the buyer. Okay. Also dated July 7, 2017?

14 A Correct.

15 Q Okay. Thanks. And so your recollection is that you
16 received some trust documents on July 7th, 2017. Correct?

17 A Correct. We would have had to have something scanned
18 to us in order to -- to change from Randall Keith to Randall
19 Keith Beane Duly Factualized.

20 Q Okay. And so after you received those documents,
21 that's when this document here --

22 A Correct.

23 Q -- the purchase agreement, Exhibit 100, was prepared?

24 A That's right.

25 Q Okay. And so when you received the trust documents,

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Jerald Byrne - Redirect Examination

1 do you review them personally?

2 A I don't.

3 Q No. You send them to a legal division?

4 A Well, I usually let the finance department, you know,
5 read through to make sure it's -- we -- we do probably 12, 14
6 trusts a year. And out of those, I've never had not one issue.
7 We usually take it at face value. If something is -- is
8 noticeably different, you know, there's -- they're normally
9 financed. They're not paid cash on the trust. They use it to
10 write things off for the trust. You know, if there's something
11 that's noticeably different, the F and I manager will tell me
12 and I'll stop the sale.

13 Q So if you don't hear anything from the F and I
14 manager, you carry on --

15 A Correct.

16 Q -- with the regular course of the sale? And so when
17 you turn things over to the legal department, you don't check
18 to ask if they've reviewed it or anything?

19 A No. We don't usually have to turn anything over to
20 the legal department. We -- I mean, we just never -- it's easy
21 like Sunday morning. We never have problems. I mean, it's
22 just -- this is the first.

23 Q Have you ever had a deal go like this?

24 A Absolutely not.

25 Q All right. Could we go to Exhibit 105. And so you

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Jerald Byrne - Redirect Examination

1 changed the purchase agreement documents on July 7th?

2 A Correct.

3 Q Correct? And then you received trust documents also
4 on July 7th?

5 A Correct.

6 Q And then you received a second set of trust
7 documents?

8 A Correct. We didn't -- after the -- we wound up
9 getting the second set on the 11th. And it was -- it was a new
10 thing. I said I want original documentation so we could see
11 the original documentation. We had calls indicating that the
12 sale was not -- it was a fraudulent sale.

13 And in order for me to be comfortable, I asked
14 Randall to bring in the original documents. He did it
15 within -- not very long anyway. He brought it back and it was
16 all -- I mean, I don't know what red dye means on anything. I
17 asked Howard afterwards, but he said he'd never seen that,
18 so --

19 Q All right. So looking at this document, you
20 understood this document to be a trust document?

21 A Correct.

22 Q All right. And so could we go to Page 2 of
23 Exhibit 105.

24 So looking at Paragraph 8, I think you indicated on
25 your cross-examination, it was incorrect?

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Jerald Byrne - Redirect Examination

1 A It is.

2 Q What's incorrect about it?

3 A Because nothing was lawfully paid to Jayco by anybody
4 but me.

5 Q Okay.

6 A Well, Buddy Gregg.

7 Q Right. Because Buddy Gregg purchased the motor home
8 initially as the dealer?

9 A Correct.

10 Q Did you prepare this document?

11 A No.

12 Q It was provided to you by whom?

13 A Randall.

14 Q Okay. And could we go to Paragraph 11, please. And
15 is Paragraph 11 correct? And specifically I'm looking at the
16 last line started with "purchase."

17 A No, it's not correct with Jayco. It's between
18 Randall Beane Duly Factualized and Buddy Gregg.

19 Q Okay. So the incorrect portion of that is it
20 references Jayco?

21 A Jayco.

22 Q All right. Could we go to the bottom of this page,
23 starting with the signature line, go all the way to the bottom,
24 please. All right. Great.

25 And so the date on this particular document is

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Jerald Byrne - Redirect Examination

1 July 11th. Correct?

2 A It indicates it. It's -- I mean, it -- yeah. I
3 mean, it kind of looks like something could have been -- I
4 mean, if you could see the over -- everything else is kind of
5 fine and to the point, and that second -- that middle section
6 looks like there's --

7 Q Okay. And so if we could highlight the signature
8 line and the sentence underneath the signature line. All
9 right.

10 Do you recognize that signature?

11 A Randall's?

12 Q Uh-huh.

13 A Yes, I do.

14 Q And underneath it, can you read that out, the
15 sentence underneath Randall Keith Beane?

16 A "The original depository" --

17 Q Oh, no, I'm sorry. Right above that in the
18 highlighted portion, "All inquiries."

19 A "All inquiries regarding the declaration of the duly
20 completed sale, are duly directed to my lawyer, Heather Ann
21 Tucci-Jarraf, telephone No. 253-241" -- I think it's 2008.

22 Q Okay.

23 A 2000 something.

24 Q Okay. Thank you. And so is that consistent with
25 what your previous conversations with Mr. Beane had been?

UNITED STATES DISTRICT COURT

Jerald Byrne - Redirect Examination

1 A With Mr. Beane and with Heather, and all -- any
2 other -- any other issues to contact his attorney directly.

3 Q All right. So you understood that Heather was
4 Beane's attorney. Correct?

5 A Correct.

6 Q Okay. So you stated a couple times on
7 cross-examination that Randall Beane had ownership of the motor
8 home?

9 A Correct.

10 Q And, in fact, did you have a storage agreement and a
11 delivery agreement with Mr. Beane?

12 A Yeah. The storage agreement is signed to let
13 everybody know we're, one, not charging them anything to store
14 their unit there until they take it away. The main reason to
15 have that signed, and at the bottom, there's a second page that
16 you don't have, but it states that you are an owner.

17 You know, and there's three lines. One states
18 that -- that you agreed to the purchase of the unit, the second
19 line agrees that if there's any financing, you're bound to the
20 finance contract. There was none. And the third line
21 indicates that this is considered as delivered to me.

22 So, in other words, if you buy it from California and
23 you want to pick it up, we give you the paperwork, you sign
24 everything on the -- on the thing, and it means that you own
25 it. There's -- it's nonnegotiable, so --

UNITED STATES DISTRICT COURT

Jerald Byrne - Redirect Examination

1 Q Was that -- can we put up Exhibit 113, please.

2 And is that this document here?

3 A Yes. There's a second page to this document, but it
4 all says the same thing, so --

5 Q Is this 115?

6 A Yes. Correct.

7 Q Okay. And could we go to --

8 A Well, this is a -- well, no, I'm sorry, this is a
9 privacy notice stating that we're not going to -- we're not
10 going to sell any information. We didn't have any information
11 to sell because he didn't finance anything.

12 Q Okay. Could -- and I apologize, could we go to
13 Exhibit 113.

14 A Yeah. That's the delivery -- that's delivery and
15 storage.

16 Q Okay.

17 A That's actually -- this one here is done by -- this
18 one here is done by the -- looks down here like -- I'm not sure
19 who the authorized signature is on that one, but it would have
20 been somebody up in the shop, because this is a shop storage
21 agreement. It might have been Daron. I'm sorry. It is Daron.
22 But he would have -- he would have signed it with Randall when
23 he came down after doing the walk.

24 Q Okay. And could we go briefly to Exhibit 103. All
25 right. And so the wire you've testified you received -- the

UNITED STATES DISTRICT COURT

Jerald Byrne - Recross-Examination

1 wire was sent on July 7th. Is that correct?

2 A No. The wire was started on July 7th. It was
3 received on July 8th, 2017 at 12:10 p.m.

4 Q Okay. And once that wire is received, the cash is in
5 Buddy Gregg's account. Correct?

6 A That's right.

7 Q A wire works just like cash?

8 A It was. We prefer wiring.

9 Q And once that wire came through on the 8th,
10 Mr. Byrne, was it Buddy Gregg's position that Randall Beane
11 owned that RV?

12 A It is the position that he owns it, yes.

13 MS. SVOLTO: Okay. Thank you.

14 THE COURT: Thank you.

15 Mr. Beane, any recross-examination in follow-up to
16 the redirect?

17 MR. BEANE: Yes, sir.

18 **RECROSS-EXAMINATION**

19 MS. DAVIDSON: Your Honor, he would like -- he wants
20 to put in an exhibit that we have not admitted yet. We don't
21 have an objection to it, but it hasn't been admitted yet.

22 THE COURT: All right. Why don't you put it on the
23 screen.

24 MR. BEANE: Okay.

25 THE COURT: Can this witness identify it? I mean, if

UNITED STATES DISTRICT COURT

Jerald Byrne - Recross-Examination

1 there's no objection to this document, let's just mark it as
2 Defendant's Exhibit 4 and we'll admit it. So go ahead.

3 MS. TUCCI-JARRAF: Three?

4 THE COURT: Three. Excuse me. Thank you.

5 (Defendants' Exhibit 3 admitted into evidence.)

6 THE COURT: All right. Go ahead, Mr. Beane.

7 BY MR. BEANE:

8 Q Mr. Byrne, do you recognize this logo on this
9 letterhead?

10 A The Whitney logo?

11 Q Yes, sir.

12 A Yes, I do.

13 Q Would that be your bank that you deal with with Buddy
14 Gregg Motor Homes?

15 A One of many, yeah.

16 Q Okay. Do you see the date there at the top?

17 A We received the -- oh, July 12th?

18 Q Yes, sir.

19 A Yes, I see that.

20 Q The arrest happened on the 11th?

21 A Correct.

22 Q This letter is dated the 12th. Correct?

23 A Okay.

24 Q Would you read this letter, please?

25 A Sure. It's indicates USAA Federal Savings Bank.

UNITED STATES DISTRICT COURT

Jerald Byrne - Recross-Examination

1 THE COURT: Just start with the "We received."

2 THE WITNESS: Okay. "We received a Hold Harmless
3 from USAA Federal Savings bank on 7/10/2017 regarding a
4 fraudulent wire deposited into Whitney Bank account on
5 7/7/17 in the amount of \$493,110.68. We have completed
6 research and are unable to return the funds per your request
7 for the following reason(s):

8 "Documentations have been provided by your customer,
9 Randall Keith Beane, acknowledging that the wire, in the amount
10 of \$493,110.68, sent on 7/7/17 to recipient, Buddy Gregg Motor
11 Home LLC, was a valid transaction and should not be disputed.
12 Mr. Beane has acknowledged that he is in possession of the item
13 purchased by the recipient.

14 "Should you have any questions, please contact me."

15 And that looks like Lauren's -- yeah, it's Lauren's
16 number.

17 BY MR. BEANE:

18 Q Thank you for reading that. Would you say that in
19 order for this letter to be drawn, that an attorney would have
20 had to gone over the documents for this letter to go out?

21 A That's something I don't -- I mean --

22 Q You wouldn't know that?

23 MS. SVOLTO: Your Honor --

24 A I don't.

25 MS. SVOLTO: -- we'd object. The witness has no

UNITED STATES DISTRICT COURT

Jerald Byrne - Recross-Examination

1 knowledge.

2 THE COURT: He said he didn't know. That's probably
3 objectionable.

4 Go ahead, Mr. Beane.

5 Not within his personal knowledge --

6 MR. BEANE: Right.

7 THE COURT: -- so I'll sustain the objection.

8 BY MR. BEANE:

9 Q Would you assume that --

10 MS. SVOLTO: Your Honor, object.

11 A I don't assume. This is something --

12 THE COURT: Let me -- excuse me, when she objects,
13 let me --

14 THE WITNESS: Oh, okay, I'm sorry, yeah.

15 THE COURT: She objects for the same reason. I'll
16 sustain the objection. It's not within the witness' personal
17 knowledge.

18 MR. BEANE: All right. Thank you for answering that.

19 BY MR. BEANE:

20 Q You said you never read the factualized trust?

21 A I don't read -- no, I don't read those.

22 Q You stated earlier that you did not feel that in any
23 way that I was being fraudulent with Buddy Gregg Motors or that
24 I had any intentions of doing anything with the coach other
25 than using it for its intended purpose?

UNITED STATES DISTRICT COURT

Jerald Byrne - Recross-Examination

1 A 300 days a year, correct.

2 Q You still feel that way?

3 THE COURT: What did you say?

4 THE WITNESS: I said 300 days a year. Correct.

5 That's what he had on our notes.

6 BY MR. BEANE:

7 Q And you still feel that way?

8 A Randall, please, forgive me, I don't -- I mean, at
9 this stage, I -- I'm not -- I'm not here to --

10 Q The reason I'm asking --

11 A -- defend them, you, or any -- I'm here just to tell
12 my statement, so ...

13 Q I understood that you had sent word by someone
14 that -- to let me know that I was a good customer and that you
15 were truly sorry for everything that had happened?

16 A And that's the truth. I'm truly sorry for anybody
17 that has this type of break.

18 Q Was there a warrant shown to you in order to take the
19 RV off the property, once I was arrested?

20 A It's not. It wouldn't be shown to me. This would be
21 handled by -- most likely it would have been -- it would have
22 been Eric Bivens, which was the people that had possession of
23 the unit.

24 Q Is it common practice to let a vehicle go without
25 seeing a warrant?

UNITED STATES DISTRICT COURT

Jerald Byrne - Recross-Examination

1 A None of this was common.

2 Q Do what?

3 A None of this was common.

4 Q I mean, is it common practice to let a vehicle go
5 without proper authority unless the owner has approved it?

6 A No. We don't frequently do that. We don't let
7 people borrow other people's stuff.

8 Q There was no approval for me to remove the vehicle
9 from the property at that point?

10 A Again, I -- I would assume not. But, again, I
11 don't -- I mean ...

12 Q Is it -- in all the years you've been in business,
13 would it be usual business practice if funds are stolen and the
14 property is still on the retail lot to take the property rather
15 than try to retrieve the funds?

16 A This has never happened to me.

17 Q Right.

18 A I don't --

19 Q But you -- in business, would you think that would be
20 usual practice?

21 A They would -- they would usually -- I mean, it
22 would -- it was indicated that you were the owner of the coach,
23 and they collect the collateral, not the cash. Right now, they
24 had no bearing against the money.

25 Q Right.

UNITED STATES DISTRICT COURT

Jerald Byrne - Recross-Examination

1 A All they had was -- was the collateral that -- that
2 USAA felt that they owned, so ...

3 Q But the funds had proven to be legitimate?

4 A The funds had cleared our account.

5 Q Okay. Who convinced you -- at some point, you said
6 that you felt comfortable with me as a customer, and you wanted
7 to protect me as a customer. Who convinced you otherwise to
8 let you believe that I had committed a crime to the point where
9 you allowed the FBI on the property to ambush me, basically?

10 A Well, it wasn't a convincing of anything. It's
11 called obstruction of justice. I'm not going to get involved.
12 My main goal is to keep our customers satisfied and safe.
13 Okay. When someone above my authority comes in on that
14 property, I don't get involved until the dust settles.

15 Q Had they been on the property prior to --

16 A Never.

17 Q Never? Just on phone calls?

18 A I'm sorry?

19 Q Just phone calls?

20 A Phone calls.

21 MR. BEANE: All right. I have no further questions.

22 THE COURT: All right. Thank you, Mr. Beane.

23 Ms. Tucci-Jarraf, any recross in response to the
24 redirect?

25 MS. TUCCI-JARRAF: Without prejudice, just brief

UNITED STATES DISTRICT COURT

Jerald Byrne - Recross-Examination

1 recross.

2 **RECROSS-EXAMINATION**

3 BY MS. TUCCI-JARRAF:

4 Q Mr. Byrne, Ms. Svolto had shown you the purchase
5 agreement -- or the purchase sales order?

6 A Correct.

7 Q Okay. And you had stated that it was Daron Walker's
8 signature at the bottom?

9 A Daron Walker would have done the final paperwork. It
10 would have been drawn up by me. It would have been saved and
11 Daron would have had Randall sign in the office. My copy would
12 have come out. He would have seen the thing across the top
13 that said something similar to nonrefundable deposit.

14 When I -- when I print the things, I take a stamp, I
15 stamp it, I send it back. Daron then goes back, has Randall's
16 signature on this until Daron -- because he then sells product.
17 He sells wheel and tire. He sells wheel and tire and extended
18 service contracts and paint and fab and stuff like that.

19 It then changes again. It's not signed by me. If
20 they by-product, it's then Daron's signature. If they -- well,
21 not any longer, but I mean, when he was there with us, it was
22 Daron's signature. It's originally stamped by me and signed by
23 me, holding the customer to the purchase.

24 Q So are you saying that you prepared that paperwork
25 then?

UNITED STATES DISTRICT COURT

Jerald Byrne - Recross-Examination

1 A I would have prepared the final paperwork. Correct.

2 Q Not Daron Walker?

3 A No. He would have printed out what I already had and
4 anything additional that he added to it. In other words,
5 Randall purchased an extended service contract, wheel and tire
6 and paint and fab, I believe is -- I don't have the document in
7 front of me, but I believe it was that three product totaling
8 somewhere around 10,000. That would be about 10,250, 10,249,
9 somewhere around there. That would have been prepared by
10 Daron.

11 Q Right. You had said in your cross earlier and as
12 well with Mr. Beane that July 8th was the first time that you
13 had actually met Mr. Beane. How would it be possible for you
14 to have prepared that paperwork on July --

15 A I would have prepared all the paperwork on -- I
16 prepare all the paperwork. I don't meet every customer by any
17 means until -- until -- sometimes I don't meet them. Sometimes
18 I'm in court and I don't get to do my job. So -- but I don't
19 meet every customer. But I usually try to make it a point to
20 walk out and shake hands and congratulate a customer and to let
21 them know that they're talking to the person that makes the
22 final decision, so ...

23 Q So Daron Walker was the one that worked with him on
24 July 7th?

25 A Daron would have had him -- Dan, Dan Lassetter and

UNITED STATES DISTRICT COURT

Jerald Byrne - Recross-Examination

1 Daron would have done -- would have done -- I would have
2 prepared the paperwork and prepared the numbers. If there is
3 any objection to any of the numbers, I would have met him at
4 that point. There was no objection to any of the numbers, so I
5 didn't have to go out and meet anybody.

6 Q You also said that any paperwork that Brad Cohen
7 would have received regarding any kind of sale, you would have
8 received as well?

9 A I would. He would send it to me.

10 Q You stated that you didn't receive any paperwork
11 other than Exhibit 105?

12 A Brad sent me nothing to my personal e-mail. The --
13 the -- what I got was from Randall.

14 Q Uh-huh.

15 A And that's --

16 Q And no further paperwork?

17 A No.

18 Q Okay. You talked about Mr. Beane had asked you
19 regarding someone taking his property, you said you weren't
20 going to get involved with obstruction?

21 A I can't.

22 Q Exactly. So, in fact, you and I never even had a
23 conversation on 7/8, it was actually Daron Walker that I had
24 spoken with --

25 A No.

UNITED STATES DISTRICT COURT

Jerald Byrne - Recross-Examination

1 Q -- who -- Daron Walker, and I had told Walker that --
2 Mr. Walker that I've always had many Walkers involved
3 throughout my entire career. Correct?

4 MS. SVOLTO: Your Honor, we're going to object to
5 this line of questioning.

6 MS. TUCCI-JARRAF: That's fine. I'll strike it.

7 THE COURT: I'll sustain.

8 BY MS. TUCCI-JARRAF:

9 Q You and I never spoke on July 8th. In fact, the
10 first time that you and I spoke was on July 10th?

11 A No, ma'am.

12 Q And on that day, I had asked you to spell out your
13 name, because I didn't know your voice and I didn't know how to
14 spell your name.

15 A You were confused about the people that were in the
16 room on the 10th, because you kept saying Nelson Forbes and you
17 kept -- you know, Mr. Forbes, Mr. Byrne, who is this, who is
18 that.

19 You and I spoke on the 8th. And then Daron Walker
20 took the remainder of the phone call, and I never met -- I met
21 with Randall on the 8th, and it was on his phone, not on our
22 phone, so ...

23 Q In fact, it was Mr. Walker that I had spoken to and
24 not you who told me about the MSO and the actual tabs, that's
25 why you can't recall the conversation correctly and we had some

UNITED STATES DISTRICT COURT

Jerald Byrne - Recross-Examination

1 issues with getting the information?

2 A No, ma'am. Daron would have to ask me --

3 Q I --

4 MS. SVOLTO: Objection.

5 THE COURT: Excuse me, Mr. Byrne. Excuse me, both of
6 you. Excuse me. Remind everyone when counsel rises to make an
7 objection, the Court will listen to the objection and make a
8 ruling.

9 MS. SVOLTO: Objecting on the same grounds as
10 earlier.

11 THE COURT: I'll sustain the objection. Just ask the
12 question of this witness and -- go ahead.

13 BY MS. TUCCI-JARRAF:

14 Q It wasn't actually you that I spoke to on July 8th.
15 Is that correct?

16 A No, it's not correct.

17 Q In fact, it was Daron Walker that I spoke to on
18 July 8th?

19 A No, ma'am.

20 Q And, in fact, it was Mr. Walker who had told me that
21 he worked in North Carolina prior to coming to your --

22 MS. SVOLTO: Objection.

23 Q -- facility?

24 MS. SVOLTO: Same grounds, and also asked and
25 answered.

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Jerald Byrne - Recross-Examination

1 THE COURT: I think -- there's obviously a dispute in
2 that regard, and the witness has answered that question.

3 MS. TUCCI-JARRAF: That's what I'm asking for is that
4 he can say he didn't say it. I'm asking for a record of it.

5 THE COURT: Well, I think you've made the record, so
6 let's move on. Thank you.

7 BY MS. TUCCI-JARRAF:

8 Q And, in fact, all the paperwork that I told
9 Mr. Walker to redo --

10 MS. SVOLTO: Again, I'm sorry, Your Honor, I have to
11 object again.

12 THE COURT: Let me hear the question. Go ahead.

13 MS. TUCCI-JARRAF: I can finish my question?

14 THE COURT: Yes. Go ahead.

15 MS. TUCCI-JARRAF: Okay.

16 BY MS. TUCCI-JARRAF:

17 Q In fact, the paperwork that is marked July 7th, that
18 we went through regarding the purchase of this vehicle was not
19 the final paperwork -- excuse me, reflects the date the final
20 paperwork was actually issued?

21 A I'm sorry. I didn't understand.

22 Q That the paperwork -- the original -- the final
23 paperwork for the purchase of that vehicle was -- actually had
24 to be redone and was redone after July 7th?

25 A No, ma'am. If it would have been done after

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Jerald Byrne - Recross-Examination

1 July 7th, it would have said July 8th, it would have said
2 July 10th. All the paperwork goes by the date of the thing.

3 The original -- the original contact date, if he
4 would have purchased this on the 6th, it would have indicated
5 the 6th. If the paperwork would have been changed at ten
6 o'clock on the 7th, it would have indicated ten o'clock on the
7 7th. If it would have been done on the 11th, it would have
8 been done -- it would have marked the 11th.

9 This computer does it for us. We don't have to -- we
10 don't have to recall anything. It recalls it for us.

11 Q And do you have that report for the systems
12 indicating the dates and times that the changes were actually
13 made?

14 A I could pull it up on my computer. I can't -- I
15 mean --

16 Q Do you have it here today?

17 A I wasn't allowed to bring my cell phone, I certainly
18 wouldn't bring my computer.

19 THE COURT: The answer is no?

20 MS. TUCCI-JARRAF: Thank you.

21 THE WITNESS: No.

22 THE COURT: Go ahead.

23 MS. TUCCI-JARRAF: Thank you. I have no further
24 questions.

25 THE COURT: Thank you, Mr. Byrne. You may be

UNITED STATES DISTRICT COURT

Lauren Palmisano - Direct Examination

1 excused.

2 THE WITNESS: Thank you.

3 MS. DAVIDSON: You want our next witness?

4 THE COURT: Yes.

5 MS. SVOLTO: Government calls Lauren Palmisano.

6 THE COURTROOM DEPUTY: Raise your right hand.

7 WHEREUPON,

8 **LAUREN PALMISANO,**

9 was called as a witness and, after having been first duly
10 sworn, testified as follows:

11 **DIRECT EXAMINATION**

12 THE COURTROOM DEPUTY: Have a seat. If you would,
13 scoot in as close as you can. State and spell your name for
14 the record.

15 THE WITNESS: Lauren Palmisano.

16 BY MS. SVOLTO:

17 Q Hi, Lauren. How are you?

18 A I'm good.

19 Q And would you tell us where you work?

20 A Whitney Bank.

21 Q And where is Whitney Bank?

22 A Well, Whitney is -- we've merged with Hancock, so
23 we're pretty much along the Gulf Coast, Louisiana, and Texas.
24 It's Whitney and then Hancock is Florida, Mississippi, and
25 Alabama.

UNITED STATES DISTRICT COURT

Lauren Palmisano - Direct Examination

1 Q So the --

2 A But Whitney Bank is --

3 Q All right. Whitney Bank. And so is Whitney Bank
4 FDIC insured?

5 A Yes.

6 Q And how long have you worked at Whitney Bank?

7 A Sixteen years.

8 Q And what do you do there?

9 A I'm a senior investigator with the corporate
10 security.

11 Q How long have you been a senior investigator?

12 A Four years.

13 Q Four years. And prior to that, what did you do for
14 Whitney Bank?

15 A I started as a teller and worked my way into the
16 credit card fraud department, and then moved on to corporate
17 investigations.

18 Q And what are some of your primary job
19 responsibilities?

20 A Pretty much investigating financial fraud, both
21 internal, external.

22 Q Did you receive any training for that work?

23 A Just experience throughout the years with fraud and
24 then just learning.

25 Q And were you working at Whitney Bank in July 7, '17?

UNITED STATES DISTRICT COURT

Lauren Palmisano - Direct Examination

1 A Yes.

2 Q Were you working as a corporate fraud investigator?

3 A Uh-huh.

4 Q And Whitney Bank, do they have customers all over?

5 A Just along the Gulf Coast. They do have some clients
6 who open accounts online, but pretty much within our footprint.

7 Q Okay. Is Buddy Gregg Motor Homes, LLC one of your
8 customers?

9 A Yes.

10 Q All right. And so in July of 2017, did you become
11 aware of a problem with Buddy Gregg Motor Home's account?

12 A Yes.

13 Q What was the problem you --

14 A We received a wire recall on July 10th for
15 unauthorized from USAA Bank.

16 Q So you received a wire recall. What exactly is that?

17 A It's just a recall from the originating bank, from
18 where the wire came from, advising us that -- electronically
19 that they're wishing to have the funds returned back to them.

20 Q And what was the reason for the recall on that?

21 A Unauthorized.

22 Q Unauthorized. Okay. And who requested the recall?

23 A USAA Bank.

24 Q So once you received that wire recall request, what
25 did you do, if anything?

UNITED STATES DISTRICT COURT

Lauren Palmisano - Direct Examination

1 A I contacted Brad Cohen who works with Buddy Gregg,
2 advised him of the recall, and he had already been aware of it
3 prior to my call.

4 Q What was your goal at that point?

5 A Just letting him know that we received a recall, and
6 that if he had any idea of this wire amount and what it could
7 be for.

8 Q And Brad Cohen, where is he located?

9 A He's located in Lafayette, Louisiana.

10 Q That's Lafayette, Louisiana?

11 A Yes.

12 Q Is he -- what is his position at Buddy Gregg?

13 A He's the president of Buddy Gregg and also an
14 authorized signer on the account.

15 Q Mr. Cohen is located in Lafayette. And, again,
16 Whitney Bank, where is its central location?

17 A Central location, we have a Whitney Bank main office
18 in New Orleans and also a Hancock main office in Gulfport.

19 Q Okay. That's in New Orleans, Louisiana and Gulfport
20 Mississippi?

21 A Mississippi, yes. And Whitney Bank is housed in
22 Texas and Louisiana.

23 Q Thank you. And so when you spoke with Brad Cohen,
24 what did you -- did you decide to take any steps after that?

25 A Well, he had stated that the wire was for a purchase

UNITED STATES DISTRICT COURT

Lauren Palmisano - Direct Examination

1 of an RV, and that he, Randall Beane, was in possession of that
2 and would supply me with a copy of that purchase agreement.

3 Q About when was this, what day? Do you remember?

4 A This was July 10th.

5 Q Was that the same day that you received the wire
6 recall?

7 A Yes.

8 Q Did you receive any other communications on -- around
9 that time from USAA?

10 A I actually reached out to USAA Bank requesting a
11 little bit more information after reviewing the purchase
12 agreement. I contacted USAA just to get a little bit more
13 information. The representative told me that their customer,
14 Randall Beane, was recalling that wire. Upon speaking with
15 them, I asked the representative to confirm the phone number
16 that was listed on the purchase agreement, if that matched to
17 what they had on the system and she did confirm it.

18 Q Did you receive a hold harmless agreement from --

19 A I did. As soon as I got off the phone with USAA
20 Bank, the representative e-mailed it to me.

21 Q And could we have Exhibit 80, please. All right. Do
22 you recognize this document?

23 A Yes, I do.

24 Q And could we highlight the date, please. Is that the
25 correct date, July 10th?

UNITED STATES DISTRICT COURT

Lauren Palmisano - Direct Examination

1 A That's correct.

2 Q That's when you received this letter, is that also
3 the same date you received the wire recall?

4 A Yes, it is.

5 Q Okay. If we could expand out and go to the
6 substantive paragraphs, please.

7 A Can I grab my glasses?

8 Q Oh, yes. I'm sure there's no problem.

9 A Okay.

10 Q So when you say you talked to your customer, who is
11 your customer that you're referring?

12 A To Buddy Gregg, Brad Cohen.

13 Q Okay. So Buddy Gregg is your customer because they
14 have an account at Whitney Bank?

15 A That's correct.

16 Q So what's the effect of a hold harmless agreement on
17 Whitney Bank?

18 A It's just a letter to request funds. We usually
19 receive this when the -- for any type of fraud where the
20 receiving bank, such as in this case is Whitney Bank, is not
21 required to send the funds back. This is -- letter is just
22 releasing us from any liability if anything comes from us
23 returning the funds.

24 Q So did you begin to conduct your own investigation
25 into the purpose of the recall?

UNITED STATES DISTRICT COURT

Lauren Palmisano - Direct Examination

1 A I did. After receiving the purchase agreement
2 confirming the phone number, I contacted Randall Beane and was
3 forced to leave a message.

4 Q And what were you trying to determine exactly?

5 A Exactly what the reason for his -- him recalling the
6 wire, just to discuss the purchase agreement that I received
7 from Buddy Gregg.

8 Q So when you were making this determination, did you
9 look at a number of different documents?

10 A At this point, I just had the purchase agreement.

11 Q Okay. And who provided you that purchase agreement?

12 A Buddy Gregg. I can't recall his name.

13 Q But someone from Buddy Gregg provided the document?

14 A Yes.

15 Q And so you reviewed the purchase agreement?

16 A Uh-huh. It was Nelson Forbes that e-mailed me.

17 Q All right. I'd like to show you, and only the
18 witness at this point and defense counsel, government's
19 proposed Exhibit 98.

20 Do you recognize this document? You can just let me
21 know if you recognize it.

22 A I do.

23 Q 153. Do you recognize that document?

24 A I do.

25 Q 154, and 154A, and 155. I believe there's a 155A as

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Lauren Palmisano - Direct Examination

1 well.

2 A I recall all those.

3 Q And 159. Or, I'm sorry, 160, excuse me. Oh, 163.

4 Thank you. And I think there's an attachment there. Is that

5 163A? Do you recognize that?

6 A I do.

7 Q And then 163B. Do you recognize that?

8 A I do.

9 Q Okay. And are these documents that are kept in --

10 I'm sorry, I have a couple more. Exhibit 157. Did I say 157

11 already? Okay. And then finally Exhibit 158. Do you

12 recognize these documents?

13 A Yes.

14 Q All right. And are these documents kept in the
15 regular course of business at Whitney Bank?

16 A Yes, they are.

17 Q Are they kept by someone who has knowledge of the
18 events as they occur?

19 A Yes, they are.

20 MS. SVOLTO: And we ask that these exhibits be moved
21 into evidence at this time. All right. That would be --

22 THE COURT: So admitted. We'll double-check the
23 numbers at the break, but all those you identified are
24 admitted.

25

UNITED STATES DISTRICT COURT

Lauren Palmisano - Direct Examination

1 (Government's Exhibits 98, 153, 154, 154A, 155, 155A, 157,
2 158, 163, 163A, 163B admitted into evidence.)

3 BY MS. SVOLTO:

4 Q All right. Can I show you Exhibit 96, which has
5 already been admitted into evidence. Do you recognize this
6 document?

7 A I do.

8 Q And what is it?

9 A This is a form that is printed out upon opening of
10 the account, shows the account number and the signatures listed
11 on the account who are authorized to withdraw and make any
12 maintenance.

13 Q So is this account sheet for Buddy Gregg Motor Home?

14 A Yes.

15 Q And then could we go to Exhibit 103.

16 Are you familiar with this document? It may be a
17 different version of another document we have.

18 A I don't recall seeing --

19 Q I think we have another document that might be more
20 familiar. We can move to that. Could you pull up Exhibit 153.

21 So what is this document?

22 A This is the wire information through our online
23 system.

24 Q Okay. Is this information you pulled during the
25 course of your investigation into this matter?

UNITED STATES DISTRICT COURT

Lauren Palmisano - Direct Examination

1 A This information was provided to me by the wire
2 department, that I do have knowledge of this document.

3 Q Okay. So can you explain to us what some of the
4 information on here is?

5 Again, maybe we can highlight that or expand that a
6 little bit there.

7 A Right, the arrow, those two are the routing numbers
8 of the sending bank and the receiving bank. You have the
9 amount.

10 Q What's that amount there?

11 A \$493,110.68.

12 Q Okay. And just below that, it has "ABA," what does
13 that indicate?

14 A That's the routing number.

15 Q That's a routing number. And the name underneath
16 that, "USAA Federal," what is -- what's that the name of?

17 A The sending bank.

18 Q Okay. So is that the routing number for the sending
19 bank?

20 A Yes.

21 Q Okay. And then beneath that where it says "Credit
22 info"?

23 A That is Buddy Gregg Motor Homes' account number.

24 Q Okay. And so "Credit info" indicates what exactly?

25 A Where the wire is going to, being credited to.

UNITED STATES DISTRICT COURT

Lauren Palmisano - Direct Examination

1 Q All right. Does it state the time that -- that this
2 occurred, the date and time?

3 A Actually, the wire was received on 7/7. That date,
4 the 7/10 is when we were notified.

5 Q Okay. So that's the date the wire is received by
6 Buddy Gregg?

7 A At the time.

8 Q All right. If we could expand out, please.

9 All right. If you go to the bottom of that where it
10 says "ORG." Can you tell us what "ORG" means?

11 A Originating.

12 Q Well, is that -- what's the information that's
13 provided there?

14 A Well, it's Randall Beane's account number with USAA
15 Bank and the address.

16 Q And so is that the name and account number for the
17 originating --

18 A Yes.

19 Q So the person who originated the wire transfer?

20 A Yes.

21 Q Okay. And could we go down -- you could just scroll
22 down in that expanded box, that's fine.

23 And so what's "OGB"?

24 A Originating bank.

25 Q All right. Originating bank. And what's the bank

UNITED STATES DISTRICT COURT

Lauren Palmisano - Direct Examination

1 that was the originating bank here?

2 A USAA Federal Savings.

3 Q Okay. All right. So you've reviewed this document
4 during the course of your investigation?

5 A Yes.

6 Q And did you -- what steps did you take after finding
7 this information out?

8 A I'm sorry, can you say that again?

9 Q What steps did you take after you reviewed this
10 document?

11 A Well, after reviewing this document, I was sent this
12 in the very beginning, prior to calling Buddy Gregg Motor
13 Homes. And this information I was able to provide to Buddy
14 Gregg, letting him know we were receiving a recall from a wire
15 that was sent from a Randall Keith Beane.

16 Q Okay. All right. So did you ultimately speak with
17 Randall Beane?

18 A I did through a conference call.

19 Q Okay. Did you initiate that conference call?

20 A No.

21 Q So you were called?

22 A I was called.

23 Q Did you -- you had initially used --

24 A I contacted Buddy Green -- Buddy Beane -- sorry,
25 Randall Beane twice, and he called back.

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Lauren Palmisano - Direct Examination

1 Q And when he called back, that was the conference
2 call?

3 A That was the conference call.

4 Q What day was that?

5 A That was on July 10th.

6 Q And who was on that conference call?

7 A Heather Jarraf, Randall Beane, Brad Cohen, Nelson
8 Forbes, to my knowledge.

9 Q All right. And what was the purpose of this
10 conversation?

11 A Well, the purpose of me calling Randall was to find
12 out a little bit why he was recalling the wire. During the
13 conference call, Heather had stated that she was representing
14 Beane, and just to discuss that the wire was in fact sent by
15 Randall Beane.

16 Q I'd like to show you previously admitted Exhibit 94.
17 In fact, I'm going to use the Elmo for this. I'm sorry.

18 Do you recognize this?

19 A Yes.

20 Q Okay. So after that phone call, did you become aware
21 that there was a recording of the phone call?

22 A I believe not until two days later through an e-mail.

23 Q A few days later you received an e-mail saying there
24 was a recording?

25 A Correct.

UNITED STATES DISTRICT COURT

Lauren Palmisano - Direct Examination

1 Q Did you listen to that recording?

2 A I was not sent that recording via e-mail. It wasn't
3 until days later when I found out about it through law
4 enforcement.

5 Q Okay. And do you remember the conversation that
6 you -- the conference call?

7 A Uh-huh. I do.

8 Q And in preparation for today, did you sit down and
9 listen to that recording?

10 A I did.

11 Q Was that the full recording or at least the full
12 recording that was available?

13 A Yes.

14 Q And did that recording accurately reflect the
15 conversations you remember?

16 A It does.

17 Q Okay. And did you sign a disc?

18 A I did.

19 Q And is that your signature on here?

20 A It is at the top.

21 Q Okay. And that's the disc that you listened to to
22 determine whether that was the same conversation?

23 A That is.

24 Q All right. Thanks.

25 A Uh-huh.

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Lauren Palmisano - Direct Examination

1 Q So during the conference call, did you learn any
2 information?

3 A I learned that Randall Beane did not initiate the
4 recall. He did send the wire, and that was pretty much it. I
5 learned that, you know -- that Heather was going to send me
6 several documents. In that call, I requested a letter from
7 Randall Beane stating that he did initiate that wire and did
8 not recall it, and it was still a question as to why was it
9 recalled, the reason for it.

10 Q What -- what would Whitney Bank do if they learned of
11 an unauthorized transfer of funds?

12 A Well, first, we'll try to get as much information as
13 possible from the receiving party, our customer, to find out if
14 they were in fact awaiting this wire or awaiting these funds,
15 and, you know, the reason for it. If we have contact
16 information and the fact that I was able to confirm it with
17 USAA Bank, I felt comfortable calling the individual,
18 Mr. Beane, to find out more information.

19 Q And if in a case where it's determined that it is an
20 unauthorized transfer, can Whitney Bank decide to honor the
21 recall and send, you know, basically -- claw that money back,
22 give that money back?

23 A We can, yes.

24 Q Okay. And so you conducted determination --
25 investigation to determine whether that was suitable in this

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Lauren Palmisano - Direct Examination

1 case?

2 A Yes.

3 Q Okay. And so back to the conference call, you stated
4 that Ms. Tucci-Jarraf indicated she was sending you some
5 documents?

6 A Yes.

7 Q And the call again was on --

8 A July 10th.

9 Q -- July 10th. Did you in fact receive --

10 A I received several documents on July 11th and 12th.

11 Q And were those documents sent to you --

12 A E-mail.

13 Q -- by e-mail. Thanks.

14 So if we could pull up Government Exhibit 98.

15 THE COURT: Why don't we do this, why don't we take
16 our lunch break at this time. I don't think we're going to get
17 done with this witness before lunch. Ms. Palmisano, if you'll
18 enjoy lunch in Knoxville and come back at 1:45, we'd appreciate
19 it. We'll stand in recess until 1:45. Jury is excused first.

20 (Jury out at 12:26 p.m.)

21 THE COURTROOM DEPUTY: This honorable court shall
22 stand in recess until 1:45.

23 (Recess from 12:27 p.m. to 1:50 p.m.)

24 THE COURTROOM DEPUTY: All rise.

25 THE COURT: Ready for our jury in just a moment.

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Lauren Palmisano - Direct Examination

1 Who needs to take up something?

2 MS. TUCCI-JARRAF: We can take it up, yeah.

3 THE COURT: Do we need to, because the jury is
4 probably going to be here in a moment. Is this something
5 pertaining to this witness?

6 MS. TUCCI-JARRAF: It's pertaining to the schedule of
7 the court for today.

8 THE COURT: Let's take it up at the break then.

9 MS. TUCCI-JARRAF: Okay.

10 (Jury in at 1:51 p.m.)

11 THE COURT: Thank you. Everyone may be seated.
12 Mrs. Svolto, you may continue with direct examination of this
13 witness.

14 MS. SVOLTO: Thank you.

15 BY MS. SVOLTO:

16 Q Ms. Palmisano, when we left last, we were looking at
17 Government's Exhibit 98. Do you recognize this document?

18 A I do.

19 Q I do. And what is it?

20 A It's one of the e-mails that I had received on
21 July 11th.

22 Q And was this e-mail in reference to the conference
23 call --

24 A Yes.

25 Q -- that we discussed. Could you look at the first

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Lauren Palmisano - Direct Examination

1 paragraph there?

2 A Okay.

3 Q And so who sent this e-mail?

4 A Heather Jarraf, Tucci-Jarraf.

5 Q When was it sent?

6 A On July 11th.

7 Q When was that conference call?

8 A July 10th.

9 Q And so were you expecting e-mails from
10 Ms. Tucci-Jarraf?

11 A Yes.

12 Q Okay. And so did you -- in this e-mail, does she
13 list out documents that she's intending to send?

14 A She said on the call that she was going to send
15 several documents.

16 Q And did you have any appreciation of
17 Ms. Tucci-Jarraf's role here?

18 A Well, she identified herself as someone representing
19 Randall Beane. I took it that she was his lawyer, his attorney
20 in the call, and these documents definitely increased the
21 credibility of her being, you know, an attorney representing,
22 so I thought nothing differently.

23 Q Okay. And did -- was there an attachment to this
24 e-mail?

25 A Yes. Would be two of them.

UNITED STATES DISTRICT COURT

Lauren Palmisano - Direct Examination

1 Q Okay. And there was a declaration, and did you
2 review the attachments?

3 A I reviewed the attachment that pertained to the
4 letter that I requested on the conference call from Randall
5 Beane stating that he did in fact send the wire. I did not
6 review in detail the attachments or the e-mails until I got
7 that -- that specific document they requested. There were
8 several of them, and so I just took them all and -- because it
9 all came down to USAA stating that their customer, Randall
10 Beane, did not submit the wire.

11 Q So your concern was whether a USAA customer
12 authorized a wire from USAA to Whitney Bank?

13 A Correct.

14 Q You didn't look at anything prior to that. Correct?

15 A Correct.

16 Q Okay. And so -- all right. So let's go to
17 Exhibit 154.

18 And this is another e-mail from Ms. Tucci-Jarraf?

19 A Yes.

20 Q Okay. And can we look at the date and time of that.

21 And when is that?

22 A July 11th at 4:47 Central Time.

23 Q Because you're located in the Central Time Zone. Is
24 that correct?

25 A That's correct.

UNITED STATES DISTRICT COURT

Lauren Palmisano - Direct Examination

1 Q Who else is included on this e-mail?

2 A It appears to be Brad Cohen.

3 Q Who does Brad Cohen work for again?

4 A He works for Buddy Gregg Motor Home.

5 Q And Buddy Gregg is your customer. Right?

6 A That's correct.

7 Q So in reviewing these documents and in determining
8 whether to recall a wire, did you take any consideration into
9 what the customer wants, your customer?

10 A I do. I do, yes.

11 Q Do you put a lot of weight on that?

12 A I do. I do. The fact that there was a sale and with
13 a purchase agreement, I try to gather all the facts, you know,
14 is our customer going to take a loss for this? Was this part
15 of a scam? The fact that these wires were funds for a valid
16 purchase agreement for a vehicle, you know, that and the fact
17 that USAA Bank's customer was being represented by an attorney,
18 providing me all these docs definitely played a role in my
19 decision.

20 Q Sure. So if we could go to the subject line of
21 Document 154, please. And so this is a document that was
22 provided as an attachment to this e-mail?

23 A Yes. I'd have to see.

24 Q Sure. Could we go to 154A?

25 A Yes.

UNITED STATES DISTRICT COURT

Lauren Palmisano - Direct Examination

1 Q And do you -- do you know what this document is?

2 A It appears to be a receipt from USAA stating that a
3 wire was in fact sent for \$493,110.68 to Whitney Bank customer
4 Buddy Gregg Motor Homes.

5 Q All right. Do you see -- if we could go to the top
6 where it says "From."

7 All right. And it is sent from USAA. Is that --

8 A That is correct.

9 Q To -- do you see that e-mail?

10 A I do see that e-mail. However, the letter is
11 addressed to Randall Beane.

12 Q Okay. So -- and it was sent on what date?

13 A July 7th, so the date that the wire was received --

14 Q Okay.

15 A -- into the Whitney Bank account.

16 Q And that's the wire sent from --

17 A From USAA Bank to Whitney Bank and deposited into
18 Buddy Gregg.

19 Q Okay. And could we go back to the body of 154.

20 Thanks. And so that -- that confirmation number, what is that?

21 Do you know what that confirmation number is?

22 A I do not.

23 Q And so -- but we know that's got -- this is a
24 document prepared by -- not by you. Correct?

25 A Not by me, no.

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Lauren Palmisano - Direct Examination

1 Q And so the beneficiary is Buddy Gregg Motor Homes,
2 LLC?

3 A That is correct.

4 Q And that would be your customer?

5 A That is correct.

6 Q Okay. And could we go to 154, the e-mail. And so if
7 you could highlight the bottom two paragraphs and that
8 hyperlink.

9 So this is when -- again, this is 154, an e-mail you
10 received from Ms. Tucci-Jarraf. Correct?

11 A That is correct.

12 Q And so could you read that first paragraph there?

13 A "The way things are evolving at the moment, the
14 Federal Reserve Bank of New York is laying the groundwork for
15 you to have a copy of the meta data, and out-going ACH
16 transmissions, for account name Randall Keith Beane, located at
17 said Fed Res Bank, which was the originating bank and account
18 name of the funds paid to you in full for the coach, for any
19 requirements of reporting you may need to do pursuant to AML's,
20 et cetera."

21 Q And then right underneath that, do you see that quote
22 there?

23 A I do.

24 Q Where does that quote appear to be from?

25 A Appears to be from the Federal Reserve.

UNITED STATES DISTRICT COURT

Lauren Palmisano - Direct Examination

1 Q Okay. And, again, this is in the body of the e-mail
2 that Ms. Tucci-Jarraf sent you?

3 A That is correct.

4 Q And she also sent that to Mr. Cohen?

5 A That is correct.

6 Q And in the blue there, do you understand it to be a
7 hyperlink?

8 A Yes.

9 Q Which would, if you click on it, it would take you to
10 where?

11 A It would take you to the website. I don't recall if
12 I did or not.

13 Q Thank you. All right. Could we go to Government's
14 Exhibit 155. All right. If we could go to the "From, Sent."
15 That's fine.

16 So is this another letter from Ms. Tucci-Jarraf?

17 A That is correct.

18 Q And it's sent to you and?

19 A Brad Cohen.

20 Q And was it sent on July 12th?

21 A Yes.

22 Q So this is now a couple days after that conference
23 call?

24 A Two days.

25 Q Okay. All right. And so if you could highlight the

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Lauren Palmisano - Direct Examination

1 attachment line.

2 And so she attached another document to this e-mail?

3 A Yes.

4 Q All right. And could we go all the way down to the
5 signature line, if you could highlight that, if possible.
6 Perfect.

7 All right. So it appears Ms. Tucci-Jarraf left a
8 phone number there?

9 A Yes.

10 Q Did you understand that to be her phone number?

11 A Yes.

12 Q Did she also sign it -- has a signature line all the
13 way at the bottom there?

14 A Yes.

15 Q What does it say?

16 A "Lawyer for Factualized Trust Randall Keith Beane,
17 and its Trustee, Randall Keith Beane."

18 Q Okay. Thank you. Could we go to 155A.

19 Is this the attachment you received with that e-mail?

20 A I recall that attachment.

21 Q And, again, you didn't -- you didn't review these
22 in-depth?

23 A No, I did not.

24 Q And this document is also sent to Mr. Cohen, too?

25 A That is correct.

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Lauren Palmisano - Direct Examination

1 Q Could we go to Exhibit 163. All right. Excuse me,
2 I'm sorry, I meant to go back to 155, the e-mail, 155. Can you
3 highlight the middle paragraph for me.

4 All right. Could you read that out?

5 A Sure. "I personally ran that investigation and
6 coordinated with other local, international, and global
7 investigators. If you have any questions in regards to that
8 investigation, for the purpose of your own records and
9 reporting, feel free to contact me with them."

10 Q And how about the last paragraph there?

11 A Read that one?

12 Q Yes, please.

13 A Okay. "Now, all documentation and due verification,
14 confirmation, reconfirmation, and notice has been duly served
15 upon you for your own records of Origin of Funds and History of
16 Funds regarding the funds you duly received as full payment
17 from Trustee Randall Keith Beane, for said coach."

18 Q So these are the representations that you received,
19 and did you print these e-mails out, did you save these
20 e-mails?

21 A I saved every single one of them.

22 Q Did you put them in some sort of file?

23 A I -- yes.

24 Q All right. Can we go to Exhibit 156, please. All
25 right. If we could expand just the "From" and "Sent" line.

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Lauren Palmisano - Direct Examination

1 And so this is another e-mail you received?

2 A Yes. Well, that's an e-mail that I sent.

3 Q Oh, this is the e-mail you sent. Okay. And this was
4 an e-mail you sent in response to the e-mails Ms. Tucci-Jarraf
5 sent?

6 A That is correct.

7 Q And if I could go jump ahead to 163, please. This is
8 another e-mail you sent -- I'm sorry, that you received from
9 Ms. Tucci-Jarraf?

10 A Correct.

11 Q Can you read that. All right. This was on the 12th?

12 A Yes.

13 Q And it appears that she sent some attachments with
14 this one as well?

15 A That is correct.

16 Q Okay. Do you recall looking at these documents?

17 A Very briefly.

18 Q All right. And if we could go to the signature line.
19 And is it signed for Ms. Tucci-Jarraf?

20 A That is correct.

21 Q With the phone number there?

22 A Yes.

23 Q Same phone numbers --

24 A Yes.

25 Q -- as previous? And does she sign it as his lawyer?

UNITED STATES DISTRICT COURT

Lauren Palmisano - Direct Examination

1 A Yes.

2 Q Okay. And could you go to 163A.

3 Does that appear to be one of the documents that was
4 attached to that e-mail?

5 A I don't recall if it was attached to that e-mail, but
6 I do recall seeing this. This was the letter that I was
7 expecting, not in this format, but mentioning that he did in
8 fact send the wire.

9 Q Okay. And could you look at -- sorry, expand on
10 Paragraph 3 there.

11 And so is that the wire?

12 A Yes.

13 Q That you're referring to there?

14 A Yes.

15 Q And that's the wire from USAA to Buddy Gregg?

16 A Correct.

17 Q Okay. And could we go to the last page of that
18 document. All right. Could you go to the full signature, all
19 the way to the bottom of the page.

20 Can you tell what the date is of this document?

21 A 7/11.

22 Q Okay.

23 A '17.

24 Q Does Ms. Tucci-Jarraff also -- does it look like
25 there's a number associated there?

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Lauren Palmisano - Direct Examination

1 A Yes.

2 Q All right. Could we expand out. And can you enlarge
3 the text of the document, please. All right. If we could
4 highlight Paragraphs 6 and 7.

5 And so this information, this was all provided to
6 you, you didn't prepare it?

7 A No.

8 Q All right. Can we go to 163B, please. Okay.

9 Does this appear to be one of the attachments to this
10 e-mail as well?

11 A I don't recall if it was attached to that specific
12 e-mail, but I do recall seeing this attachment.

13 Q Okay. And could we highlight the paragraph right
14 beneath that logo. Thank you.

15 Do you recall seeing this on this document?

16 A Yes.

17 Q And is there an e-mail at the bottom of that?

18 A That is.

19 Q Okay. All right. If we could expand out again and
20 go to the list right before the paragraph. That's perfect.
21 Towards the bottom of there, again, you didn't -- you didn't
22 review these closely, did you?

23 A No.

24 Q And they were sent to your customer also. Right?

25 A I'm sorry?

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Lauren Palmisano - Direct Examination

1 Q They were sent to your customer as well?

2 A Yes.

3 Q And that being Buddy Gregg?

4 A Yes. Brad Cohen.

5 Q All right. And there's an account number there.

6 Correct?

7 A That is correct.

8 Q At the bottom, did you see those last four digits?

9 A 1135.

10 Q The account name?

11 A Randall Keith Beane.

12 Q Okay. And then so this -- all right. If we could go
13 to Exhibit 157.

14 This was also sent on July 12th?

15 A Yes.

16 Q And this is a response to your previous e-mail to
17 her. Actually, why don't we go to 158. I'm sorry, not 158,
18 excuse me. Let's go to Exhibit 156.

19 A I do recall getting that e-mail, though.

20 Q Okay. And 156, so after you received the documents
21 and the e-mails and there -- were there other e-mails and
22 documents that -- Ms. Tucci-Jarraf that we did not talk about?

23 A No. There were several e-mails that she sent in the
24 two-day period.

25 Q Okay. And so you took note of those e-mails?

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Lauren Palmisano - Direct Examination

1 A I saved them. I briefly reviewed them, but our whole
2 thing was that he did in fact send that wire and that it wasn't
3 what USAA was claiming, that it -- he was the one that recalled
4 it.

5 Q Okay. So you -- they made a determination on whether
6 to recall the wire?

7 A Following the conversation, the conference call, we
8 sent an electronic denial back to USAA denying their recall.

9 Q And then did you send this e-mail to
10 Ms. Tucci-Jarraf?

11 A I did.

12 Q And could we highlight the date that it was sent?

13 A On July 12th.

14 Q Okay. And so what does this e-mail indicate?

15 A Well, it indicates that I placed all the documents
16 that she sent via e-mail in a case file electronically and that
17 I closed my case, based on the provided information, which is
18 the purchase agreement, the letter that I requested, and the
19 fact that, you know, there was a lawyer involved and I didn't
20 think any reason to deny of who she was.

21 Q Okay. Can we go to Exhibit 158.

22 And is this the electronic transmission you're
23 referring to?

24 A No. This is the letter that I personally sent to
25 USAA Bank via e-mail letting them know we had denied their hold

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Lauren Palmisano - Direct Examination

1 harmless.

2 Q Okay. And that's the agreement to hold Whitney Bank
3 harmless?

4 A Yes.

5 Q Okay. And this was sent on what date?

6 A On July 12th.

7 Q Okay. And you personally sent that to USAA?

8 A Correct.

9 Q Okay. And can you highlight the first paragraph in
10 the body of the letter.

11 Okay. So that's in regards to the wire transfer from
12 USAA to Buddy Gregg?

13 A Yes.

14 Q And indicating you've denied the request?

15 A Yes.

16 Q Okay. And then the next paragraph, please. Just
17 scroll.

18 And so could you read that out?

19 A "Documentation has been provided by your customer,
20 Randall Keith Beane, acknowledging that the wire, in the amount
21 of \$493,110.68, sent on 7/7/17 to the recipient, Buddy Gregg
22 Motor Homes LLC, was a valid transaction and should not be
23 disputed. Mr. Beane has acknowledged that he is in possession
24 of the item purchased by the recipient."

25 Q And did you -- how did you learn that Beane was in

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Lauren Palmisano - Direct Examination

1 possession of the item?

2 A My initial call with Brad Cohen, Buddy Gregg.

3 Q When was that call?

4 A July 10th.

5 Q And on July 10th, that's when you learned that Beane
6 already had possession of the motor home?

7 A Immediately following the notification of the recall,
8 when I contacted Buddy Gregg or Brad Cohen, that's when he
9 informed me.

10 Q And so when you have a purchase agreement and your
11 customer is telling you that it's a valid transaction and the
12 asset is gone, that's how you make your decision on this?

13 A Yeah. I mean, that was part of it and with
14 acknowledgment from Randall Beane.

15 Q Okay. Thank you. Did you receive an e-mail from
16 Heather Ann Tucci-Jarraff after -- after this time? Did you
17 receive any further e-mails? Can you recall?

18 A I can't recall after this letter was sent to USAA
19 Bank, but I did receive a couple on July 12th.

20 Q And could we go back to Exhibit 157. And so if you
21 could just enlarge the document. Thank you.

22 So is this another one of -- an e-mail on July 12th?

23 A Yes.

24 Q Did you send any response to this e-mail?

25 A No. I don't recall.

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Lauren Palmisano - Cross-Examination

1 Q And so after the 12th, did you take any other steps?

2 A No. I closed my case out and that was it.

3 MS. SVOLTO: Just a minute, Your Honor, please. I
4 have nothing else. Thank you.

5 THE COURT: Thank you.

6 Cross-examination, Ms. Tucci-Jarraf?

7 MS. TUCCI-JARRAF: Yes. Thank you.

8 **CROSS-EXAMINATION**

9 BY MS. TUCCI-JARRAF:

10 Q Without prejudice, I will proceed with
11 Ms. Palmisano -- is it Palmisano or Palmisano?

12 A Palmisano.

13 Q Palmisano. Thank you. Okay. You had stated that,
14 Ms. Palmisano, that you received numerous amount of e-mails
15 starting on July 11th --

16 A Correct.

17 Q -- through the 12th?

18 A Correct.

19 Q Pursuant to our conversation and agreement on the
20 10th of July.

21 That you would give the declaration of valid sale and
22 all the underwriting and title?

23 A I received what you had stated on the conference
24 call.

25 Q Okay. And did Ms. Anne-Marie Svolto for the DOJ, did

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1 she present all those e-mails and documents that you had
2 received starting July 11th through the 12th or only in part?

3 A Like I said, there were several e-mails.

4 Q Uh-huh.

5 A And all of them were documentation that I did not
6 really review, just partial. As far as the number of e-mails,
7 I couldn't be for sure, for positive, but there were several,
8 some of which seemed to be repetitive, but ...

9 Q Okay. If we could, David, if you don't mind,
10 Exhibit 105, I believe it was. Sorry, I believe it was 98.

11 Ms. Palmisano, could you look at this -- was this the
12 first e-mail you had received from this e-mail address, from my
13 e-mail address? Do you remember -- do you recall if that was
14 the first e-mail?

15 A I can't recall, but this -- this is one of the
16 e-mails, yes.

17 MS. TUCCI-JARRAF: Excuse me, if we could just have a
18 few minutes so that I can speak with Ms. Davidson. There were
19 a number of discovery which we were not able to open. I
20 believe those were the e-mails that they sent in discovery, I
21 just wanted to check to see if she had them.

22 THE COURT: Go ahead.

23 MS. TUCCI-JARRAF: Thank you.

24 Just one moment, Your Honor.

25 THE COURT: Is there a question about documents? Can

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1 we move forward with questioning with this witness?

2 MS. TUCCI-JARRAF: Yeah. When it's -- when I
3 received discovery from DOJ, on it, there were files that I'm
4 now becoming aware that might have been these e-mails. We
5 weren't able to open them, and I had given a copy of them to
6 Mr. Lloyd, telling him that we weren't able to open them. I
7 was notified by Mr. Beane today that this is the first time
8 he's been able to see these e-mails, that they even existed.

9 We're trying to determine if there are e-mails --
10 because this goes to title, possession, that there was no
11 intent to defraud anyone or to commit any crimes. They are
12 essential and vital to be able to prove that part of it.

13 THE COURT: So what are we trying to do?

14 BY MS. TUCCI-JARRAF:

15 Q What we're going to do is I'm -- first, I'm going to
16 ask, Ms. Palmisano, did you provide every e-mail, plus the
17 attachments that you received from me to Department of Justice
18 or FBI?

19 A I did.

20 Q You did. Okay. Do you have those e-mails and
21 attachments with you today?

22 A No, I do not.

23 Q Okay.

24 MS. DAVIDSON: Your Honor, might I respond?

25 THE COURT: Yes.

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1 MS. TUCCI-JARRAF: I haven't finished yet. What we
2 were going to ask for is either a continuance so that we're
3 able to get all those e-mails, because I do have copies from my
4 own e-mail that I'm able to bring in since they haven't
5 produced every e-mail, which also has the title, the ownership,
6 the origin and funds, history of funds, which was what we had
7 discussed on the 10th and I sent over on the 11th and the 12th,
8 or to just hold this witness over so that we are able to --
9 until tomorrow wherein I can bring those in so we can go
10 through them since they have not produced them.

11 MS. DAVIDSON: Your Honor, let's just start with the
12 fact that we 100 percent did produce these documents. And I
13 have the discovery letter on September 5th, 2017, we referenced
14 that we produced all financial records and documents obtained
15 from Whitney Bank.

16 I've just checked on my system and a copy of those
17 documents are on our actual hard drive at the U.S. Attorney's
18 Office. If there's a problem with this disc, she has had since
19 September 5th, 2017 to bring it to the U.S. attorney's
20 attention. There's no problem with our disc, so she got it.

21 Furthermore, the attachments which she's referencing
22 are the documents which this Court has already ruled are
23 irrelevant and should not be admitted to the Court.

24 THE COURT: What's your response?

25 MS. TUCCI-JARRAF: Thank you. Aside from that whole

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1 issue as far as that was regarding lack of jurisdiction and
2 lack of authority of this Court or DOJ, that's where those were
3 filed. However, this is a title, ownership, we're going to the
4 intent to commit a fraud. These were documents that were
5 produced over, which are title, authority, ownership, and
6 rights of the funds itself --

7 THE COURT: All right. Well --

8 MS. TUCCI-JARRAF: -- were sent over to
9 Ms. Palmisano, and we -- I did notify Mr. Lloyd that I was not
10 able to open up -- gave him the thumb drive with the disc that
11 we were not able to open, and I showed him on my laptop how you
12 couldn't open it. And it brought up just the Outlook, and I
13 wasn't able to access it. So I did notify Mr. Lloyd.

14 And per Shirley said that there was to be -- if there
15 was any contact, it was between Mr. Lloyd and Cynthia Davidson
16 and Anne-Marie Svolto and not myself. So I did follow
17 procedure on that particular, and I never received any of the
18 documentation.

19 MS. DAVIDSON: Your Honor, Ms. Tucci-Jarraf has
20 contacted me personally by e-mail multiple times, and she
21 certainly could have done so in this regard.

22 MS. TUCCI-JARRAF: And that was only after the
23 praecipe had gone in regarding the lack of jurisdiction and
24 authority, as well as the dismissal.

25 THE COURT: All right. I've heard enough. Thank you

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1 both for your input.

2 Based on what I've heard, the Court is not, to the
3 extent Defendant Ms. Tucci-Jarraf is seeking a continuance or
4 to hold over this witness, the Court is going to deny those
5 requests.

6 Mr. Beane are you joining in that request by
7 Ms. Tucci-Jarraf?

8 MR. BEANE: Yes. Because there's been several pieces
9 of documentation that I have not had at all to view.

10 THE COURT: Well, I mean, based on the
11 representations that all discovery has been turned over, the
12 Court, first, is not going to grant any continuance or -- and
13 we're going to go forward with this witness.

14 To the extent there are other documents that arise, I
15 will withhold a ruling on whether -- if you come with further
16 documents, even if this witness is not available, the Court
17 will consider whether allowing those into evidence, if they're
18 not already into evidence. So let's go ahead and continue with
19 this witness.

20 MS. TUCCI-JARRAF: Without prejudice, moving forward.

21 BY MS. TUCCI-JARRAF:

22 Q Ms. Palmisano, just to make a record of the
23 documentation that had been sent to you, since we don't have
24 the original e-mails and the attachments with them except for
25 the few that Ms. Anne-Marie Svolto put in, I'm going to go over

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1 the one document that she did have you identify.

2 Okay. Document -- excuse me, Exhibit 163B. So this
3 is the factualized trust. Inside of this particular document
4 that you did receive -- do you recall this document?

5 A I recall seeing this document.

6 Q Okay. And inside would have been every single
7 attachment is actually listed that you would have received
8 inside of those various e-mails. So I'll just go in for the
9 record then and list which documents that you did receive, and
10 we can always gather the e-mails and the documents and then I
11 can put them in that way, so at least today there's a record of
12 this.

13 Could you go to the next page of that, please. Okay.

14 So this particular document is Page 2 of that
15 document that you had received, and this reference number for
16 this particular document is capital F.

17 Could you read that -- could you highlight that.
18 This right here. Thank you. Are you able to read that?

19 A Uh-huh.

20 Q What does that say, please?

21 A FT-OD-rkb-09291967.

22 Q Thank you. Okay. If you could unhighlight that,
23 please. Thank you.

24 Okay. Within this document, if you go to the next
25 page, please, in here, it lists the underwriting, which lists

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1 the various e-mails you received. Do you recall whether those
2 attachments were UCC documents?

3 A I will say, like I said before, I did not go over
4 these in-depth. I do recall seeing those documents. But as
5 far as verbatim, what they said, so forth --

6 Q I'm not asking verbatim, just if you recognize them
7 as UCC filing? Do you recall? If you don't recall, that's
8 fine.

9 A No.

10 Q Okay. So within this document that you received, and
11 in the other e-mails you received, you would have received each
12 and every document that's listed in here beginning with UCC
13 record number 2000043135 dated May 4th, 2000 and receipt number
14 36090.

15 That would have been one separate e-mail -- that
16 would have been in the e-mail that you received.

17 MS. TUCCI-JARRAF: So at this time, I would move,
18 without prejudice, that this document that's already in
19 evidence, and each of these -- I can either go through and list
20 each of these documents that are in there, and there's
21 numerous, so that we can bring them in at a later time as soon
22 as we're able to get them from our site, since Ms. Davidson
23 didn't bring them in and these were attached to the e-mails
24 that Ms. Palmisano got, or I can just have them restated as if
25 they're set forth in full.

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1 THE COURT: All right. I'm not entirely sure what
2 you're asking. Are you -- I mean, we've identified the
3 documents by government exhibit number that are in evidence.

4 MS. TUCCI-JARRAF: True. But what I'm asking for is
5 each of these -- each of these documents that are listed here
6 were actually presented to Ms. Palmisano inside of e-mails,
7 numerous e-mails, because they go to the title, the
8 authorization, the authority and the ownership of where the
9 funds came from, the originating facility, as well as the funds
10 she says she received and got a declaration of valid sale.

11 THE COURT: So what are you -- what are you wanting
12 to establish now?

13 MS. TUCCI-JARRAF: Well --

14 THE COURT: I mean, you've asked her did she
15 receive -- you've identified this exhibit number and referenced
16 to attached documents.

17 MS. TUCCI-JARRAF: Uh-huh.

18 THE COURT: So ...

19 MS. TUCCI-JARRAF: This document, but nobody -- she
20 states she doesn't have all the full e-mails and the
21 attachments with her, which are the title --

22 THE COURT: I understand all that. Is there anything
23 else you need to ask of this witness about that?

24 MS. TUCCI-JARRAF: No. I'm asking if we want to go
25 through all of these numbers to see if she has received them?

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1 THE COURT: Go ahead and ask your questions.

2 MS. TUCCI-JARRAF: I'll just go ahead and --

3 THE COURT: You can ask -- I don't want -- you ask
4 the question you think you need to ask and then we'll see if
5 there's objection, and we'll just go on, same process we've
6 been using. Thank you.

7 MS. TUCCI-JARRAF: Thank you very much.

8 BY MS. TUCCI-JARRAF:

9 Q Ms. Palmisano, do you remember receive that UCC
10 record number 2000043135?

11 A I don't recall. Like I said, I received numerous
12 e-mails, numerous attachments. Once you sent them, I put them
13 in a file electronically.

14 Q Okay. I'm just going to go through, then, and list
15 these numbers, ask you the same question and you can respond.

16 A Okay.

17 Q Okay. UCC record number 20111125781, do you recall
18 receiving that document in an e-mail?

19 A I don't recall.

20 Q Okay. UCC document 2011055259. Do you recall
21 receiving that document in an e-mail.

22 A I can't recall.

23 Q Thank you. UCC number 2011055260, do you recall
24 receiving that in an e-mail as an attachment?

25 A I cannot recall.

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1 Q 2012049126, do you recall receiving that UCC document
2 in an e-mail?

3 A I do not recall.

4 Q Record two -- UCC record 2012012675, do you recall
5 receiving that document attached to an e-mail?

6 A I can't recall.

7 Q Document 2012025545, do you recall receiving that
8 document in an e-mail as an attachment?

9 A I could have. I really -- I cannot recall.

10 Q I -- thank you for answering. I apologize for making
11 you do this, but as part of the record, we need to go through
12 it. Thank you.

13 Do you recall receiving the document -- UCC
14 document 2012049126 as an attachment in an e-mail?

15 A I can't recall.

16 Q Thank you. Do you recall receiving UCC
17 document 2012-125-1787-8 as an attachment in an e-mail?

18 A I can't recall.

19 Q Do you recall receiving document 2012012555 as an
20 attachment in an e-mail?

21 A I can not recall.

22 Q Do you recall receiving document 2012028312 as an
23 attachment in the e-mail?

24 A I can't recall whether I did or didn't.

25 Q Thank you.

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1 Do you recall receiving document -- UCC
2 document 2012012659 as an attachment in an e-mail from me?

3 A I can't recall.

4 Q Do you recall receiving document -- UCC
5 document 2012028311 as an attachment in an e-mail from me?

6 A I cannot recall.

7 Q Do you recall receiving document -- UCC document
8 2012028314 as an attachment in an e-mail from me?

9 A I cannot recall.

10 Q Okay. Do you recall receiving UCC
11 document 2012079290 and UCC document 2012079322 in an e-mail as
12 attachments in an e-mail from me?

13 A I don't know.

14 Q Okay. Do you recall receiving UCC record
15 number 2012094308 as an attachment in an e-mail from me?

16 A I don't know.

17 Q Do you recall receiving a record, UCC record
18 number 2012113593 as an attachment in an e-mail from me?

19 A I don't know.

20 Q Okay. Do you recall receiving UCC record
21 number 2012127914 and 20 -- record number 2012127907 and record
22 number 2012127854 as attachments in an e-mail from me?

23 A I don't know.

24 Q May I have the next page, please, David? Thank you.

25 Do you recall receiving the paradigm report dated

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1 March 6th, 2011 as an attachment in an e-mail from me?

2 A Where are you looking?

3 Q This would be number -- article two, letter A, and
4 it's sort of in the top third of the page.

5 A I do recall a report with that verbiage.

6 Q Okay. And I believe that is exhibit -- I'm sorry,
7 155A, but I'm not going to call those up yet. We'll finish
8 going through -- and I apologize for any inconvenience here,
9 but we need to get this on the record.

10 Okay. Ms. Palmisano, do you recall receiving UCC
11 record 2012012555 and UCC record 2012028312 from me as
12 attachments in an e-mail?

13 A I don't know.

14 Q Excuse me?

15 A I don't know.

16 Q Do you recall receiving UCC records 2012012659 and
17 record number 2012028311 --

18 A I don't know.

19 Q -- in an -- as attachments in an e-mail from me?

20 A I don't know.

21 Q Do you recall receiving UCC record 2012028314 as an
22 attachment in an e-mail from me?

23 A I don't know.

24 Q Do you recall receiving UCC record
25 number 2012-125-1787-8 as an attachment in an e-mail from me?

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1 A Where are you looking?

2 Q That would be article two, letter C.

3 A I don't know.

4 Q Moving to article two, letter D, do you recall
5 receiving UCC record number 2012083304 as an attachment in an
6 e-mail from me?

7 A I don't know.

8 Q Moving to article two, letter E. Do you recall
9 receiving UCC record number 2012083304 as an attachment in an
10 e-mail from me?

11 A I don't know.

12 Q Moving to letter F. Do you recall receiving UCC
13 record number 2012086794 as an attachment in an e-mail from me?

14 A I don't know.

15 Q Thank you. Moving to G. Do you recall receiving UCC
16 record number 2012086802 as an attachment in an e-mail from me?

17 A I don't remember. I don't know.

18 Q Thank you. David, if you would, please, go to the
19 next page. Okay. Excuse me, Ms. Palmisano.

20 Ms. Palmisano, do you recall receiving UCC record
21 number 2012088865 as an attachment in an e-mail from me?

22 A I don't remember.

23 Q Thank you. Moving to letter I. Do you recall --

24 THE COURT: Let me ask a question.

25 Ms. Palmisano, there are several UCC numbered

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1 documents referenced in this exhibit. And you've stated so far
2 with respect to each one that Ms. Tucci-Jarraf has asked you
3 about that you don't recall whether you received them or not.
4 Would your answer be the same for each of these --

5 THE WITNESS: Yes.

6 THE COURT: -- numbered UCC documents?

7 THE WITNESS: I don't remember specifically.

8 THE COURT: Why don't we move on. I think that
9 establishes the record. Her answer would be she does not
10 recall whether she received any of the listed UCC referenced
11 documents in this exhibit.

12 MS. TUCCI-JARRAF: Without prejudice, I'll move
13 forward.

14 BY MS. TUCCI-JARRAF:

15 Q Thank you, Ms. Palmisano, for your assistance with
16 that.

17 Okay. Ms. Palmisano, how long had you -- how long
18 had you been working for Whitney Bank?

19 A Sixteen years.

20 Q Sixteen years. And I remember you stated that you
21 had been working -- you started as a teller and worked your way
22 up?

23 A Correct.

24 Q Okay. How long have you been in the corporate
25 investigations division?

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1 A Four years.

2 Q And approximately how many cases have you
3 investigated of financial fraud?

4 A Hundreds.

5 Q On 7/10 you stated you received a wire recall from
6 USAA electronically?

7 A Correct.

8 Q And the recall says that it was unauthorized?

9 A Correct.

10 Q Okay. Is there electronic -- or a printout of that
11 electronic report?

12 A Yes.

13 Q Did you provide that to the Department of Justice?

14 A I did.

15 Q And who shows on the electronic report, do you
16 recall?

17 A I'm sorry?

18 Q Do you recall who the sender is? There's an ID
19 typically of not just the sender, but sometimes the person that
20 is actually from the sending entity. Do you recall?

21 A It was -- it was just USAA. It was nobody -- it's
22 all done electronically, so ...

23 Q Did you print that report out before --

24 A Yes. I submitted everything.

25 Q Did Ms. Anne-Marie Svolto put that document on the

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1 screen for you today, that electronic report that you printed
2 and gave to them?

3 A I don't recall seeing it.

4 Q You don't recall seeing it?

5 A No, it was just the initial wire.

6 Q Okay. And staying with that, just the messaging
7 between you and USAA, you stated that you had reached out to
8 them on 7/10 after you received that wire recall to --

9 A After --

10 Q Sorry.

11 A After I spoke with our customer, Buddy Gregg --

12 Q Okay.

13 A -- I reached out to USAA.

14 Q Uh-huh. And do you recall who you spoke to at USAA?

15 A I do.

16 Q Who was that?

17 A Shelsea Anderson.

18 Q And it was Ms. Shelsea Anderson, you had mentioned in
19 your direct with Ms. Anne-Marie Svolto, that they told you
20 their client was recalling the wire?

21 A Correct.

22 Q And that was Shelsea Anderson that had told you that?

23 A Correct.

24 Q Okay. And at that point, did she state that she was
25 going to send you a hold harmless agreement from USAA or did

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1 you just receive that later?

2 A No. She said she would send us -- send me the hold
3 harmless via e-mail.

4 Q Did she say why?

5 A I'm sorry?

6 Q Did she say -- did she say why she would send -- is
7 it typical to send a hold harmless agreement if their client is
8 the one that's saying he didn't authorize?

9 A It's typical to send a hold harmless outside of time
10 line, like you have -- if you have a time frame to return
11 items, and once you've gone without, like outside of that, the
12 hold harmless is just basically releasing the receiving bank
13 from any liability.

14 Q And what's that time frame?

15 A Well, wires it's immediate. So there really is no
16 guarantee of sending funds back for wires.

17 Q Okay. So with a -- for instance, with a purchase
18 with like a check or anything like that, it's a -- are you
19 talking about the three-day time period?

20 A Twenty-four hours.

21 Q Twenty-four hours?

22 A For most checks, yes.

23 Q Okay. And so anytime after that 24 hours, a hold
24 harmless agreement would have to be sent in that particular
25 scenario?

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1 A Depending on the type of fraud.

2 Q So hold harmless is really truly for situations of
3 fraud?

4 A To my knowledge, yes.

5 Q Okay. So if she told you that their client was
6 recalling the wire, did she also tell you that that client
7 committed fraud?

8 A She did not go into specifics. I did not get any
9 information really from them, except that their client was
10 recalling the wire.

11 Q And then she told you she would send over a hold
12 harmless agreement, which is typically involved in cases of
13 fraud?

14 A From what I've done in the past with cases, all of
15 mine have been fraud. I am not sure if there's other
16 circumstances for hold harmless, but from all the hold
17 harmleses that I've dealt with, it's been on a fraud basis.

18 Q And did you believe that in this instance she was
19 sending it over because there might be an issue of fraud?

20 A Well, she claimed that her customer was recalling it.
21 So I didn't know any of -- any story behind why it was being
22 recalled.

23 Q And did you receive any other information in regards
24 to -- from law enforcement at any point or someone saying they
25 were in law enforcement, did you speak with anyone that day?

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1 A What day?

2 Q Excuse me, July 10th, from law enforcement.

3 A No. No.

4 Q Okay. Did you speak with a True Brown from USAA?

5 A I believe he may have -- he contacted the bank. I
6 contacted him, but was not able to speak with him.

7 Q You never spoke with True Brown?

8 A No, did not.

9 Q And was that on 7/10 that he left a message for you
10 to contact him?

11 A I can't recall whether it was -- he called me or
12 called my boss. He called Whitney Bank. I returned that phone
13 call, but did not speak with him.

14 Q And you -- when he called and left a message at
15 Whitney Bank, did he identify who he was or who he was with.
16 Do you recall that?

17 A I can't recall what was said on the voice mail, but I
18 did know that it was True Brown from USAA.

19 Q And did you provide a recording of that voice mail
20 for -- to the Department of Justice or FBI?

21 A No. Our calls are not recorded.

22 THE REPORTER: No what?

23 THE WITNESS: Our calls are not recorded.

24 BY MS. TUCCI-JARRAF:

25 Q And just to stick with the wire messaging, you stated

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1 that on 7/12, July 12th, that you had sent an electronic denial
2 to USAA?

3 A No.

4 Q Is that correct?

5 A On 7/10, our wire department sent an electronic
6 denial.

7 Q So on 7/10, you sent an electronic denial?

8 A Yes.

9 Q And do you have a printout of that denial?

10 A I provided it.

11 Q You provided it to the DOJ and FBI?

12 A Yeah. Uh-huh.

13 Q And has that document -- that printout of --

14 A I have not seen that document today.

15 Q -- of that electronic printout been shown to you
16 today?

17 A No.

18 Q On that conference call that we had on 7/10/2017,
19 which would have been -- that would have been Exhibit 94, I
20 believe. I believe 94 was when she put up the disc and said do
21 you recall that?

22 A Yes.

23 Q Okay. During that call that yourself, Brad Cohen,
24 myself, and Randall Beane, and I believe Mr. Forbes and
25 Mr. Byrne possibly may have or may not have been on there, at

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1 that time, you had given me your e-mail address and Mr. Cohen
2 had given me his e-mail address in order to send those e-mails
3 with all those documents. Isn't that correct?

4 A I know I had given, I believe, my fax.

5 Q Right.

6 A But I know that Nelson Forbes had my e-mail address,
7 because he's the one that sent me the purchase agreement. I
8 can't recall if the e-mail address was given.

9 Q You had given me your fax number and I said I had
10 multiple documents to send you.

11 A I know I got your e-mails via e-mail.

12 Q Right. Because you had given me your e-mail address
13 as well as Mr. Cohen on the same call together, and I had read
14 them back to you to verify that I had it correctly and stated
15 that I would start sending them as immediately as possible
16 after Mr. Beane had signed those documents --

17 A Yes.

18 Q -- the declaration of valid sale. Correct?

19 A Yes.

20 Q Okay. And you had given me a number to be able to
21 reach you back in case there was a problem. I verified your
22 phone number with you on that same call?

23 A I can't recall if I gave you the phone number. I
24 know I gave you the fax number.

25 Q Okay.

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1 A And I know I gave you True Brown's number as well.

2 Q Yes. You had given me True Brown's number.

3 A Uh-huh.

4 Q Okay. Did you -- you stated you received a hold
5 harmless agreement on July 10th. Did you receive another hold
6 harmless agreement at a later date from USAA?

7 A What happened was, USAA had actually faxed another
8 department a copy of that hold harmless, at which point I did
9 not get a copy of that fax until after I received the e-mail
10 from USAA, from Shelsea.

11 Q And do you recall what date that was?

12 A July 10th.

13 Q So you don't recall receiving another --

14 A I -- yeah, they forwarded that to me. I mean, after
15 I had received the e-mail from Shelsea, it was the same hold
16 harmless.

17 Q So you don't recall receiving another copy of the
18 hold harmless in November of 2017?

19 A In November?

20 Q Uh-huh.

21 A No.

22 Q While I continue to look to that, Ms. Palmisano, do
23 you -- are you aware of whether your client has returned the
24 money back to USAA Bank for the -- regarding that purchase?

25 A I have no knowledge of that.

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1 Q So, essentially, on July 12th, when you closed your
2 case, you had no more further involvement or awareness of
3 anything going on with this particular case?

4 A Not until I got the subpoena.

5 Q Okay. So -- then let's go to that e-mail,
6 Exhibit 156, please, David. Can you blow that -- thank you.

7 On this particular e-mail, it was Wednesday. Could
8 you please read that, what date it was and time stamp, please.

9 A July 12th at 4:10 p.m., Central Standard Time.

10 "Thank you very much for the information you have
11 provided. I have placed all the documents you have supplied
12 via e-mail in a case file. Whitney Bank Corporate
13 Investigations has marked this case closed based on the
14 provided information."

15 Q And that was the last time you and I had contact?

16 A You had e-mailed me after that regarding a recording,
17 which I never received.

18 Q Excuse me?

19 A I never received the recording you had mentioned in
20 the last e-mail. You had replied to this e-mail.

21 Q Right. Okay. And if you could go to Exhibit 163,
22 please. Yeah, I believe the last e-mails that we shared
23 together was on July 12th. There was no e-mails between us
24 after July 12th. Is that correct?

25 A That is correct.

UNITED STATES DISTRICT COURT

Lauren Palmisano - Cross-Examination

1 Q And this e-mail, I'm sorry, this is 2:47, so that was
2 before your e-mail to me. If you could, please, David.

3 In this one, on this particular e-mail, because as we
4 were archiving them, there was one showing possibly that you
5 hadn't received the declaration and trust as attachments that
6 are listed there, and I had resent this to you. Is that
7 correct?

8 A I can't -- I can't recall.

9 Q That's okay. Yeah. Looks like there was -- this was
10 a forwarded e-mail from our archives in the event because it
11 was missing from my e-mail server, and so I was forwarding you
12 the archived of the original e-mail that had been sent out so
13 that you had everything for your records. Do you recall
14 receiving two e-mails?

15 A I do recall seeing -- I mean, to be -- to be exact, I
16 have no idea, but I do -- you know, earlier, I had said that
17 some of them seemed repetitive, so that could have been one of
18 them.

19 Q Okay. And then Exhibit 157, please. Are you --
20 thank you.

21 And this -- can you say what time this was dated,
22 date and time stamp, can you see this e-mail?

23 A July 12th at 6:44 p.m.

24 Q Right. And are you -- when you received this e-mail,
25 were you in Central Time Zone or Eastern Time Zone?

UNITED STATES DISTRICT COURT

Lauren Palmisano - Cross-Examination

1 A Central.

2 Q Central?

3 A Uh-huh.

4 Q Right. That's right. Because I was an hour ahead.

5 Okay. So would this -- this is the date from -- or the time --
6 east coast time, you would have received it Central Standard
7 Time?

8 A Well, this is coming from my e-mail, then it would
9 have been 6:44 Central.

10 Q Central Standard Time. Okay. And this is just
11 requesting me if there's any other further investigation that
12 comes in to -- for that, can you please state what you read
13 from that, in this particular e-mail?

14 A I'm sorry?

15 Q Could you please just tell me what that e-mail
16 signifies to you when you had received it? Is this a request
17 for any further information you may receive in regards to
18 Randall Keith Beane and this transaction?

19 A So you're asking -- clarify that. Like, you're
20 asking what do I take from this, just stating that your --
21 stating that I've closed my case, that Whitney Bank has closed
22 the case?

23 Q So this was -- in fact, I have requested -- you had
24 just stated in your e-mail, which we had pulled that up, your
25 response, confirmations saying you had closed the case?

UNITED STATES DISTRICT COURT

Lauren Palmisano - Cross-Examination

1 A Right.

2 Q And that was the only information you had given us
3 was that you had closed the case. Is that correct?

4 A With the documentation that I've been provided.

5 Q Right.

6 A Uh-huh.

7 Q Just that statement. And you received this after you
8 had sent me that --

9 A Yeah.

10 Q -- was to request these four items, the -- can you
11 please read one through four?

12 A "The allegation initiating the investigation, all
13 subsequent allegations included for investigation, and the
14 findings causing the case to be closed, and define and
15 identify, specifically and particularly, all that constitutes
16 'the provided information.'"

17 Q Below that, could you read that please?

18 A "In further transparency, I will e-mail you and Brad
19 a recording of the telephonic conference from July 11, 2017
20 that I was recently made aware of to complete your files."

21 Q Did you ever receive a copy of that recording?

22 A No, I did not.

23 Q Okay. So Ms. Anne-Marie Svolto asked regarding
24 your -- I wanted to ask you, you stated you did receive the
25 paradigm report?

UNITED STATES DISTRICT COURT

Lauren Palmisano - Cross-Examination

1 A I recall seeing a report with that verbiage on it,
2 yes.

3 Q Right. 155, David, please.

4 Did you read through it at all?

5 A No, I did not.

6 Q And Ms. Anne-Marie Svolto asked you basically if you
7 put a lot of weight on what your customer wants. Could you
8 please clarify what you mean by that?

9 A Well, it's about collecting all the facts, and our
10 customer had provided a transaction receipt, a purchase
11 agreement, that, and with Randall Beane's acknowledgment that
12 he did in fact send the wire play a big part, because that was
13 the reason for the recall, was that he supposedly recalled the
14 wire. And the fact that he had someone representing himself --
15 representing him also played a big part in my decision.

16 Q Uh-huh. All right. In fact, the first e-mail, 98 --
17 Exhibit 98, please. Yes, here, if you could pull up that first
18 paragraph, please, David.

19 And I know that she's asked you already to read it.
20 You've read it into the record. Can you read from, "and at the
21 direction"?

22 A "And at the direction of my client, Factualized
23 Trust, Randall Beane -- Randall Keith Beane, and its trustee,
24 Randall Keith Beane."

25 Q Did you understand that Randall Keith Beane in this

UNITED STATES DISTRICT COURT

Lauren Palmisano - Cross-Examination

1 particular transaction was a trustee of a trust?

2 A I recall hearing trustee. I knew it has something to
3 do with that, but --

4 Q Thank you.

5 A -- it was --

6 Q Did Mr. Cohen ever contact you after July 12th saying
7 there was any problem?

8 A I don't recall hearing from him.

9 Q And you never received any other contact from your
10 department in regards to the wire after July 12th?

11 A No.

12 Q And who is your supervisor?

13 A Jerry Kuhn.

14 Q Could you spell that for me, please?

15 A Last name?

16 Q Is Jerry with a J or --

17 A It's actual Gerald or Gerald. Oh, goodness. Jerry,
18 J-e-r-r-y -- or G-e-r-r-y. I'm sorry. Last name, Kuhn,
19 K-u-h-n.

20 Q K-u-h-n?

21 A Uh-huh.

22 Q Thank you.

23 A You're welcome.

24 MS. TUCCI-JARRAF: I don't have any other questions
25 for you. Thank you, Ms. Palmisano, for your patience.

UNITED STATES DISTRICT COURT

Lauren Palmisano - Cross-Examination

1 THE COURT: Thank you.

2 Mr. Beane, cross-examination?

3 MR. BEANE: Yes.

4 **CROSS-EXAMINATION**

5 BY MR. BEANE:

6 Q Good afternoon, Ms. Palmisano.

7 A Hello.

8 Q Now, you said earlier you had listened to the
9 recording that the Court played for us yesterday?

10 A I did.

11 Q In the recording, do you recall hearing me say,
12 "Heather, I'm getting a call from New Orleans" twice?

13 A Yes.

14 Q Would that have been in the time frame or the time
15 period between that call that you hear me say that and our
16 conference call that you called me?

17 A Say that one more time.

18 Q The time period between when you hear me saying that
19 in the recording and our conference call, would that have been
20 the time period between when you called and --

21 A I heard that on the recording, yes.

22 Q And your number does show up New Orleans. Correct?

23 A Correct.

24 Q Okay. You also made mention that when you first
25 heard that I had called and requested the funds back, that you

UNITED STATES DISTRICT COURT

Lauren Palmisano - Cross-Examination

1 had the number cross-referenced to the purchase agreement. How
2 did you do that?

3 A Well, I received the purchase agreement from Buddy
4 Gregg, which had your phone number on it.

5 Q Where did the call come into to where you could see
6 the number calling?

7 A When I contacted USAA Bank, I confirmed with them, is
8 that what you're asking?

9 Q No. You said there was a number -- when I called --
10 when somebody posing as me called in?

11 A Oh, after I tried calling you?

12 Q No. You said that someone had called and said they
13 were me and wanted the funds reversed.

14 A USAA told me that you were recalling the funds.

15 Q Oh, so you never got the call yourself from someone
16 posing as me?

17 A No.

18 MR. BEANE: Okay. No further questions. Thank you
19 for your time.

20 THE WITNESS: Uh-huh.

21 THE COURT: Thank you.

22 Any redirect?

23 MS. SVOLTO: No, thank you, Your Honor.

24 THE COURT: Thank you.

25 Ms. Palmisano, you may be excused.

UNITED STATES DISTRICT COURT

Sean O'Malley - Direct Examination

1 MS. SVOLTO: Your Honor, may this witness be released
2 from her subpoena so that -- such that the rule would not apply
3 to her?

4 THE COURT: Yes, based on the Court's previous
5 rulings and discussions.

6 So you're free to remain in the courtroom or leave as
7 you see fit.

8 THE WITNESS: Thank you.

9 THE COURT: The government can call its next witness.

10 MS. DAVIDSON: We call Mr. Sean O'Malley.

11 THE COURTROOM DEPUTY: Raise your right hand.

12 WHEREUPON,

13 **SEAN O'MALLEY,**

14 was called as a witness and, after having been first duly
15 sworn, testified as follows:

16 **DIRECT EXAMINATION**

17 THE COURTROOM DEPUTY: Have a seat. If you'll scoot
18 in as close adds you can. State and spell your name for the
19 record.

20 THE WITNESS: Yes. It's Sean O'Malley. S-e-a-n.

21 O-apostrophe-M-a-l-l-e-y.

22 BY MS. DAVIDSON:

23 Q Mr. O'Malley, what do you do?

24 A I'm the senior vice president and the chief
25 investigator in the enforcement group at the Federal Reserve

UNITED STATES DISTRICT COURT

Sean O'Malley - Direct Examination

1 Bank of New York.

2 Q Okay. What -- how long have you been with the
3 Federal Reserve Bank of New York?

4 A It's coming up in a couple weeks, it will be 19
5 years.

6 Q Nineteen years. And what are your responsibilities?

7 A It varies quite a bit, but my unit gets involved in a
8 lot of investigations, regulatory investigations of banks in
9 the anti-money laundering and the sanction violation area. We
10 also get involved in a lot of internal investigations and in
11 some instances external investigations, sometimes fraud
12 related, and also as a liaison for law enforcement, me and my
13 team gets -- we get called to come to trials on occasion, to
14 talk about payment systems, talk about fraud related issues, so
15 it's quite a varied area.

16 Q Okay. So for us laypeople, what exactly is the
17 Federal Reserve?

18 A So the Federal Reserve is the central bank of the
19 United States. And as part of that, it has many different
20 functions. The main part of the Federal Reserve is in
21 Washington. That's the Board of Governors. People forget
22 about that. And there's 12 regional reserve banks around the
23 country. So altogether they make up the Federal Reserve
24 System.

25 Typically, what most people think about the Federal

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Sean O'Malley - Direct Examination

1 Reserve is they execute monetary policy, which includes setting
2 interest rates, you know, that are being used by the banks. In
3 addition, they also coordinate with other central banks. And
4 in addition to central banks, they also coordinate with other
5 international monetary policy entities, like the International
6 Monetary Fund, the IMF, or The World Bank. And part of that
7 interaction is actually providing services to them.

8 So the Federal Reserve Bank of New York is the
9 reserve bank responsible for having accounts services. So we
10 actually have accounts for well over a hundred central banks in
11 the New York Fed, and that allows them to conduct U.S. dollar
12 transactions, buy securities, even -- they're even allowed to
13 have gold in the vault downstairs in the Federal Reserve, and
14 many of them do. So that's -- that's another part of it.

15 We also conduct -- basically provide fiscal services
16 for the United States, so we are the fiscal agent for the U.S.
17 government. And as part of that, we'll process transactions on
18 behalf of the government.

19 And what most people think about also is that when
20 the U.S. government is trying to fund itself, they quite often
21 do that by selling treasury securities. So the Federal
22 Reserve -- in fact, the Federal Reserve in New York has a
23 markets group that operates the area where they sell treasury
24 securities out to the public. That's done through what's known
25 as primary dealers. So there's a certain group of institutions

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Sean O'Malley - Direct Examination

1 that buys the U.S. debt from the Federal Reserve on behalf of
2 the Treasury. So that's how the U.S. government funds
3 themselves in large part in addition to tax revenue and other
4 things.

5 The Federal Reserve also has an area where they --
6 they execute transactions on behalf of the depository
7 institutions, so that would include wire transfers, electronic
8 transfers, like wire transfers and the Fedwire system. It
9 would also include other types of electronic transmissions,
10 such as ACH transactions through the FedACH process. In
11 addition, they clear checks on behalf of financial
12 institutions. And, finally, they distribute currency
13 throughout the nation, and even, in fact, it's distributed
14 internationally in some cases as well.

15 So those are the payment -- the internal payment
16 operations of the Federal Reserve. We also have another area,
17 which is involved in the supervision of financial institutions.

18 They -- this -- the institutions that are regulated
19 by the Federal Reserve, we have examiners that go out, and they
20 go on site and they make sure that the banks are adhering to
21 U.S. laws and regulations and then that the banks are safe and
22 sound.

23 So my unit, the investigative unit, often works hand
24 in hand with supervision, and if there's a problem with one of
25 the financial institutions, then it gets referred to my area,

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1 which is the enforcement area.

2 Q Okay. So how exactly is the Federal Reserve owned?
3 Is it a government agency, or is it a combination of government
4 agency and bank?

5 A Well, it's a federal instrumentality, so it was
6 created by Congress in I believe it was 1913. And so there are
7 members of the Federal Reserve, the banks.

8 The banks are not allowed to lend a hundred percent
9 of the deposits that they take in. They're required to keep a
10 certain amount of reserves that they can't lend out in case
11 there's an emergency and some people want to come back and, you
12 know, access their deposits.

13 They have to keep a certain amount, and they do in
14 fact keep a certain amount at the Federal Reserve. And those
15 deposits themselves are part of the structure, and they are
16 actually in -- the banks are part owners in theory of the
17 Federal Reserve, because they share in the Federal Reserve.

18 But it's not ownership in the common definition of
19 you can tell the institution what to do or direct the
20 executives what to do. That -- that activity is with the
21 Federal Reserve, the 12 regional banks in coordination with the
22 Board of Governors in Washington.

23 The Board of Governors is actually not an
24 instrumentality. They are actually part of the U.S.
25 government. The reserve banks themselves are these entities

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Sean O'Malley - Direct Examination

1 that were created by Congress, and they are quasi public, but
2 in fact funded, as you described by the sharers of some of the
3 financial institutions.

4 Q Okay. And so do any individuals, like me or
5 Ms. Svolto, do any individuals own or have accounts at the
6 Federal Reserve?

7 A No. Just depository institutions or, as I mentioned
8 earlier, central banks, you know, IMF, World Bank, things like
9 that.

10 Q So central banks are like the banks of a country?

11 A Yeah. So, I'm sorry, the central banks -- you know,
12 the Federal Reserve is the central bank of the United States.
13 And, similarly, there are central banks in most other
14 countries. And those central banks can apply to maintain an
15 account at the Federal Reserve. And, you know, if -- we don't
16 have one for every single country in the world, but for well
17 over a hundred countries have an account at the Federal Reserve
18 Bank of New York.

19 Q So the only -- I guess the only things, because
20 they're not really individuals, the only groups that have
21 accounts, personal accounts, are banks -- are the central banks
22 or depositories? You said depositories?

23 A Depository institutions, yes.

24 Q Okay.

25 A So it could be a credit union as well.

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Sean O'Malley - Direct Examination

1 Q Right. So does the Federal Reserve hold any secret
2 accounts for individuals?

3 A No.

4 Q Does the Federal Reserve and its member banks, is
5 that how you say it, member banks, or is there all the banks?
6 Okay. There's the Federal Reserve and then there's 12 Federal
7 Reserve Banks?

8 A Right. So there's -- they're by districts.

9 Q Okay.

10 A So the New York Federal Reserve district is the
11 Second District. But, yeah, so there's 12 regional Reserve
12 Banks, if you'd like, but those banks themselves all have
13 depository institutions that will have accounts at those
14 Federal Reserves.

15 So, you know, depending on where you are, it's
16 usually the closest location to the nearest Reserve Bank that
17 we open your account.

18 Q Okay.

19 A Those are known as master accounts. So a big bank
20 might have one master account. And if you think about the
21 account, when they have an account with the Federal Reserve,
22 it's their ABA routing number. Okay. So if individuals have
23 an account at the bank, the bank will determine what that
24 account number would be. But at the Federal Reserve, all the
25 accounts are their ABA routing numbers. That is the bank's

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Sean O'Malley - Direct Examination

1 account number at the Federal Reserve.

2 Q Okay. Yeah. I follow. And so does the Federal
3 Reserve and its district banks, am I saying that right?

4 A So the Federal Reserve in Washington doesn't -- is
5 not a bank.

6 Q Okay.

7 A So they don't have any accounts. It's only the
8 reserve banks themselves, the 12 reserve banks that have --
9 that maintain accounts for depository institutions. And if it
10 wasn't clear before, they also maintain accounts for the
11 U.S. -- if the U.S. government.

12 Q Okay. So the 12 reserve banks, that's the way to say
13 it. Right?

14 A Yes.

15 Q Did they have their own routing numbers?

16 A They do.

17 Q And are these routing numbers published?

18 A Yes.

19 Q Okay. Is it pretty easy to find Federal Reserve
20 Banks' routing number?

21 A Yes. Or commercial banks, the U.S. government
22 entities, yeah.

23 Q So you mentioned that the Federal Reserve, parts of
24 it regulate ACH transactions. And just without asking for a
25 treatise on ACH, but roughly, what is an ACH transaction?

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Sean O'Malley - Direct Examination

1 A Okay. Can I just -- I would just like to comment,
2 they don't regulate the ACH.

3 Q Okay. I'm sorry.

4 A So what -- what they do is they operate a payment
5 platform. And one of the payment platforms and the services
6 they provide is ACH services. So there's also a competing ACH
7 service called Electronic Payment Network, which is a private
8 entity -- you know, run by a private entity. So I'm just going
9 to keep mine to the FedACH program.

10 Q Okay.

11 A And that's basically where -- I think, for most
12 people, to try to keep it a little easier to understand, if
13 people think about their direct deposits of their paychecks,
14 that comes into their -- into their bank account
15 electronically. That is an ACH payment.

16 In many instances, if you pay your utilities or your
17 car loan or things like that, in many instances, you will give
18 your utility the right to take money out of your account on
19 your behalf and to pay your utility bill. So you would give
20 them the right to debit your personal account, take money out
21 and apply that funds to your payment. And so that is all part
22 of the ACH.

23 You can either direct an ACH payment out or you can
24 give somebody the rights to pull or debit money out of your
25 account. Those are electronic payments, but there's different

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1 legal differences between ACH and Fedwire, which we'll talk
2 about in a second.

3 ACH gives more rights to the consumer. They have
4 more -- you know, they have the ability to pull back, you know,
5 payments which are -- which were not properly approved. And
6 same with financial institutions. Financial institutions -- if
7 one financial institution tries to extract money from another
8 financial institution's account holder, that -- the account
9 that's being debited or the money's being pulled from, they
10 have two days to determine whether in fact that's a valid
11 payment or not. And if -- within that two day period, if it's
12 not valid, they can basically take the money back and revoke
13 the earlier payment.

14 Q Okay. And so that time period, which you just
15 discussed, is two days?

16 A Two days that the banks will have to go back to the
17 other financial institution that debited the funds from their
18 account to determine whether it was valid or not. If it was
19 not valid, but they waited till three days, then if they
20 couldn't get the money back from the customer, it's on the bank
21 that didn't return those funds in a proper period of time.

22 Q Okay. So I guess, bottom line, an ACH transaction is
23 not instantaneous. There's a two-day time period before most
24 banks would consider it final?

25 A That's correct. Although, you know, that's kind of

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1 like the legal responsibilities, so, you know, each bank has
2 its own back office. So when it's apparent to the customer,
3 versus when it's apparent to the bank, you know, might depend
4 on how fast their systems are, how fast they update, you know,
5 each customer, because ACH in many cases, it's -- it's a batch
6 system.

7 So let's say if it's your utility company and they
8 would take payments out, they might take a hundred customers'
9 payments all out at once from a big bank, let's say. There
10 might be a hundred customers from that big bank that have
11 authorized them to pay their monthly utility bill.

12 But each -- the bank has to go down to each account
13 holder to make sure that that was valid, because each account
14 holder will have the right to say, no, that that wasn't a valid
15 debit out of my account. And then on the other side, the
16 utility would have to credit each individual account holder's,
17 you know, account. So that takes time for each of them to do
18 that internally.

19 Q And so what you're saying is, it can take more than
20 two days?

21 A It might appear that way, yeah. But from bank A to
22 bank B, if bank A is debiting or pulling money out of bank B's
23 account, bank B has two days to say that was an improper debit
24 of my account and I'm taking the money back because it was
25 improper.

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Sean O'Malley - Direct Examination

1 Q Okay. So are you familiar with Fedwires?

2 A Yes.

3 Q And how are -- what are Fedwires?

4 A It's another electronic payment, but Fedwires are
5 more immediate. So when a wire transfer is executed, that --
6 that payment gets executed by their financial institution and
7 it will go through the Fed -- the Fedwire funds transfer
8 system, and that payment is immediate, and that payment can't
9 be revoked. Right. You don't have the legal right to pull it
10 back anymore.

11 So there's a significant difference legally between
12 the two. Typically, there is -- ACHs are often free, usually
13 free, when a wire transfer could be 20 to \$40 in a processing
14 fee that goes along with the wire, with the Fedwire transfers.

15 Q So do all federal wires with U.S. dollars, do they go
16 through the Federal Reserve, Fedwires?

17 A No. So --

18 Q Okay.

19 A -- the -- I would say the vast majority of domestic
20 wire transfers get processed by the Fedwire Funds Transfer
21 Service. And the majority of the international wires gets
22 processed by another competing entity that is owned by the
23 banks, and that's called Clearing House Interbank Payments
24 System or CHIPS. So CHIPS and Fedwires are competitors. And
25 you can send international via Fedwire, but you don't have to.

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Sean O'Malley - Direct Examination

1 You could use the CHIPS system, and I guess you could use CHIPS
2 domestically as well.

3 But that's generally the way it works out, is that
4 for whatever reason, most domestic institutions choose to use
5 Fedwire and a lot of the big banks that are clearing
6 internationally tend to use CHIPS.

7 Q Okay. And how is -- and you may have already
8 explained this, but how is the Fedwire different from ACH, just
9 the immediacy?

10 A Well, it's -- it is the immediacy, but it's more
11 about the ability to -- to tell somebody there was an incorrect
12 payment. Okay. And also Fedwire, you don't have -- you have
13 to push out a Fedwire. Okay. You have to initiate the
14 Fedwire, where an ACH is much different.

15 To help spur the economy, if you will, they created
16 ACH so that other big institutions, like your utility or like
17 your car, you know, GMAC, or whoever it would be, if you give
18 them the right, they can initiate and they can pull money out
19 of your account with your authority into -- you know, to pay
20 off your loans.

21 You can't do that with a Fedwire. Nobody else can
22 take money out of your account via wire transfer, because it's
23 immediate. So you wouldn't have the ability to say, "No, that
24 was an improper withdrawal of those funds."

25 But with ACH, because they have those built-in

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1 controls, that gives them the right to say, "No, it was an
2 improper withdrawal out of my account," that's generally the
3 legal difference between the two, and that's why one takes
4 longer to settle than the other.

5 Q Okay. That makes sense.

6 So does USAA Bank have authority to pull money out of
7 the Fed Reserve of New York if they use the proper routing
8 number?

9 A Yeah.

10 Q Through an ACH transaction?

11 A They would have access to the ACH system so they
12 could execute that kind of a transaction, yes.

13 Q Okay. And then the Federal Reserve in New York would
14 check to see if it was a valid account?

15 A Well, see, the first process is, they check to see if
16 it's a valid routing number.

17 Q Okay.

18 A Okay. Because if it's not a valid routing number, it
19 will get automatically rejected.

20 Q Okay.

21 A So if it's a valid routing number, then there's going
22 to be an account number also as part of that, but they won't
23 know whether that account number is right or wrong. The
24 Federal Reserve System won't be able to determine that because
25 that's going to be on the books and records of the party that

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1 account's being debited.

2 Okay. So when they execute that, that's why, you
3 know, there's this two-day window so you can figure out whether
4 that account number is valid or not.

5 So -- so when -- if USAA wanted to execute it, they
6 could. As long as it was a valid routing number, they would be
7 able to pull funds out of the routing number of the receiving
8 depository institution, the one that they're sending the
9 payment -- they're sending a message to but they're pulling the
10 funds from.

11 Q Uh-huh.

12 A And then that institution then has two days to say
13 either -- in the vast majority, 99.9 percent of the time, it's
14 a valid routing number. So two days goes by, nobody rejects
15 it, and, you know, they get to keep their money.

16 But if, in fact, there was no account number there,
17 or there was some other reason why, maybe they don't have funds
18 in their account, right, and they tried to pull it, but the
19 person had a zero balance, so the bank isn't going to give them
20 credit, so they're going to reject that. So for whatever
21 reason they reject it, they have to do it within a two-day
22 window.

23 And then the financial institution that initiated the
24 ACH debits, in this case, USAA, then the counterparty would
25 pull those funds back and say that that was not a valid

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1 transfer, transaction. And those funds would then be credited
2 or taken back out, you know, so -- I'm sorry. They would have
3 debited the other financial institution so it's a credit into
4 their account, and now that credit gets reversed and that gets
5 pulled out or debited back out of the USAA's account, if it was
6 an invalid transaction.

7 Q Okay. So specifically in this case, there was a
8 Fedwire from USAA Bank to Whitney Bank that on July 7th,
9 2017 -- and did I serve a trial subpoena on you to receive an
10 information whether this Fedwire went through the Federal
11 Reserve of New York?

12 A Yes. As part of my trial subpoena, I brought that
13 with me, yes.

14 Q Okay. And is this a record which is maintained in
15 the ordinary course of business?

16 A Yes, it is.

17 MS. DAVIDSON: Your Honor, at this time, I'd like to
18 admit Government's Exhibit 164. He brought it with him, but I
19 have provided a copy to both defendants.

20 THE COURT: We'll go ahead and admit -- absent
21 objection, admit 164.

22 (Government's Exhibit 164 admitted into evidence.)

23 BY MS. DAVIDSON:

24 Q Thank you. Do you recognize this document?

25 I'm sorry, we can blow it up on screen. We had time

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1 to scan it. Could you pull it up? And if you could expand it.

2 Could you tell me what this document is?

3 A Yes. It is -- it's a Fedwire wire transfer that we
4 processed about a half million of them a day, so this is just
5 one of many. And in this case, you can see the -- well, it's
6 got a lot of codes that may be a little hard to read. But you
7 can see, there's a line that says "Amount," and the field tag
8 is the "2000" field tag, and this is in the amount of
9 \$493,110.86 [sic].

10 Q If you can scroll up some.

11 Sender reference -- I'm sorry, if you could go a
12 little bit further to expand. Okay.

13 What's the "Sender Reference Number"?

14 A The sender reference number is a number that the
15 financial institution that created the wire transfer, they put
16 that number in, so it's not a number that's assigned by the
17 Federal Reserve. It's initiated by the institution.

18 Q Okay. And so -- and the "Originator"?

19 A So in the originator, what that's saying here is this
20 wire transfer -- and if you'll look at the IMAD, which is in
21 "1520" field tag, you can see the date of the wire transfer.
22 So that was on July 7, 2017.

23 And what this is saying is that the originator, who
24 initiated this wire transfer, is in the 5,000 field. And that
25 would -- the originator is identified as Randall Keith Beane at

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1 300 State Street, Apartment 365, Knoxville, Tennessee.

2 Q Okay. Can you go further down?

3 A Well, the -- the other thing is the account number
4 that's associated is that 020787, that -- that would be the
5 account number at the bank that initiated the wire transfer,
6 which would be USAA.

7 Q Okay. The identifier is the USAA Bank number
8 associated with Randall Keith Beane?

9 A Correct.

10 Q Okay. And then the financial institution USAA
11 Federal?

12 A Yes, so the sender ABA, 3100 at the top, that is --
13 and you see right below that is the receiver ABA at 3400, those
14 are the customers of the Federal Reserve System. Okay. So
15 these are the two depository institutions whose accounts are
16 being debited and credited.

17 So in this case, the Federal Reserve is debiting the
18 account of the sender, taking money out of the sender, which is
19 USAA, and putting a credit into the account of the receiver,
20 which is Whitney Bank. And both of them have their ABA routing
21 numbers in front of their name. So, again, those would be the
22 account numbers in the Federal Reserve System.

23 Q Okay. If you could scroll down further, please. And
24 so -- and what is the beneficiary information?

25 A So the beneficiary is the person who's -- the wire

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1 transfer is being sent to, so the funds would be put into their
2 account. And the beneficiary is identified as Buddy Gregg
3 Motor Homes, LLC in Knoxville, Tennessee. And the account
4 number associated with Buddy Gregg Motor Home is 046074960
5 number.

6 Q Okay. If you could expand, David. And could you go
7 to the top, which is OMD. What does OMD -- what kind of
8 information is in there?

9 A Well, there's -- there's an IMAD and an OMAD. So one
10 is really the incoming message, and then the OMAD is the
11 outbound message.

12 Q Okay.

13 A And that's really the Federal Reserve sending this
14 message, if it's -- if it's got an OMAD, it's an executed wire
15 transfer.

16 Q Okay. That's what this is. If it's got an OMAD,
17 it's an executed wire transfer. And so does Document 164
18 indicate that it's an executed wire transfer?

19 A Yes, it does.

20 Q And can you assume from the numbers, the "20170707,"
21 is that the date?

22 A Yeah. It's the same date as it was initiated, right,
23 so the -- before we talked about the IMAD, it had that date,
24 the OMAD has that date. And I believe the actual execution is
25 that 0918. I think that's 9:18 in the morning.

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1 Q Okay. And so if we -- are you familiar with the
2 electronic transmissions that would cause a Fedwire to happen?
3 I hate to use the word "wire," because it confuses everybody
4 dealing with Fedwires versus wires in the legal sense, which
5 are telephones and Internet.

6 But are you familiar with the way a transaction would
7 go? Do these transmissions go through the Federal Reserve of
8 New York from the member banks?

9 A We're talking Fedwire right now?

10 Q Yes. Fedwire.

11 A So in Fedwire, we've got two processing centers.
12 There's a primary processing center and a secondary center. On
13 the date of this wire transfer, the processing, the primary
14 processing center was in New Jersey and then a secondary was in
15 Texas.

16 Q Okay.

17 A And, basically, the way it works is the -- you know,
18 the -- the requests for payment, right, from USAA would come
19 into the Fed Reserve, the Fed Reserve gets ready to process it,
20 and before it actually does the debiting and crediting, it
21 sends a payment to its secondary facility. The secondary
22 facility sends an acknowledgment that it was received, because
23 that's the backup site. And then it would be -- debiting and
24 crediting gets executed, and then the outbound advice of
25 payment goes to both institutions.

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1 So the first institution, which executed the payment
2 is USAA, they would know that it had been completed. And then
3 Whitney Bank, which doesn't know that a wire transfer is being
4 initiated, will get that advice of payment, and then they would
5 say, okay, who's this payment on behalf of, and they'll find
6 the account, the beneficiary, and they'll be able to apply the
7 payment.

8 Q Okay. So if I understand you correctly, basically,
9 this Fedwire, you know at least went through New Jersey and
10 Texas?

11 A Correct.

12 Q Okay. And you testified, does -- and I think I
13 already asked you this, but does the Federal Reserve of New
14 York have any individual accounts linked to people based on
15 their Social Security number?

16 A They don't have individual accounts. They don't have
17 accounts for individuals for any number.

18 Q Okay. And are you familiar with the Federal Reserve
19 of New York website?

20 A Yes.

21 Q And is this very easily accessible to anyone who's
22 familiar with the web at all?

23 A Yes.

24 Q Okay. And does the Federal Reserve website
25 specifically say that individuals do not have -- that no

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1 individual has an account?

2 A Yes. I believe it's on the Federal Reserve Bank of
3 New York's website and it's certainly on the Board of
4 Governors' website as well.

5 Q I'm going to show you what's been marked as
6 Government's Exhibit 162, and just for the witness.

7 And do you recognize that?

8 A Yes. This is on the Board of Governors frequently
9 asked questions.

10 MS. DAVIDSON: Okay. And, Your Honor, I'd like to
11 admit Government's Exhibit 162 at this time.

12 THE COURT: Just one-page document?

13 MS. DAVIDSON: Just this one-page document. It's a
14 screenshot of the -- the internet for the Federal Reserve.

15 THE COURT: Any objections?

16 MR. BEANE: I'm sorry. No, I don't have any
17 objection.

18 THE COURT: Okay. So admitted.

19 (Government's Exhibit 162 admitted into evidence.)

20 MS. DAVIDSON: Can you publish it to the jury?

21 THE COURT: Let me ask the jury, we were going to --
22 I need to leave a little early today, about 4:45, or leave the
23 courtroom to attend to some matters. Do y'all want to take a
24 ten-minute break or so now or keep going for another 45 minutes
25 or so? Totally up to you-all.

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1 JURY PANEL: Break would be good.

2 THE COURT: Take a break. Okay. Let's go do that.
3 Sounds good.

4 (Jury out at 3:51 p.m.)

5 THE COURTROOM DEPUTY: This honorable court shall
6 stand in recess until 4:05.

7 (Recess from 3:52 p.m. to 4:09 p.m.)

8 THE COURTROOM DEPUTY: Please remain seated and come
9 to order.

10 THE COURT: Looks like we're ready to continue.
11 We'll bring our jury in.

12 (Jury in at 4:09 p.m.)

13 THE COURT: Thank you. Everyone may be seated.

14 Ms. Davidson, continue, please.

15 BY MS. DAVIDSON:

16 Q Yes. I just brought to your attention Government's
17 Exhibit 162, and you stated you recognized this document?

18 A Yes.

19 Q And could you read this document for the Court,
20 please, just basically where it starts at the "Does." And this
21 is frequently asked questions. Correct?

22 A That's correct. So the question is, "Does the
23 Federal Reserve maintain accounts for individuals? Can
24 individuals use such accounts to pay bills and get money?"

25 And the answer is, "No. The Federal Reserve Banks

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1 provide financial services to banks and governmental entities
2 only. Individuals cannot, by law, have accounts at the Federal
3 Reserve Bank.

4 "A recent hoax circulating on the Internet asserts
5 that the Federal Reserve maintains accounts for individuals
6 that are tied to the individual's Social Security number, and
7 that individuals can assess" -- "access," excuse me -- "these
8 accounts to pay bills and obtain money. These claims are
9 false."

10 Do you want me to continue?

11 Q Yes, please.

12 A "The Federal Reserve does not maintain accounts for
13 individuals, and individuals should not attempt to make
14 payments using Federal Reserve Bank routing numbers or false
15 routing numbers. Individuals who attempt to pay bills or
16 conduct other transactions using a Federal Reserve Bank routing
17 number may face penalty fees from the company they were
18 attempting to pay, or the suspension or closure of their
19 commercial bank or payment service provider accounts. Law
20 enforcement, including the Federal Bureau of Investigation, the
21 FBI, is aware of this scheme, and individuals who participate
22 in such schemes could also face criminal charges."

23 Q Okay. That's far enough. And beside this posting to
24 the Internet, the Board of Governors Federal Reserve System,
25 are there other places on the Federal Reserve Internet that

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1 explains that no individuals have accounts at the Federal
2 Reserve?

3 A Yes. The Federal Reserve Bank of New York has a
4 frauds and scams website, section of the website, which also
5 explains that, as does -- the scheme that they're talking about
6 has also been posted on the Atlanta Reserve Bank's website as
7 well.

8 MS. DAVIDSON: Okay. May I have a moment?

9 THE COURT: Yes.

10 MS. DAVIDSON: That's all I have.

11 THE COURT: Thank you. Cross-examination,
12 Ms. Heather Tucci -- excuse me, Tucci-Jarraf.

13 **CROSS-EXAMINATION**

14 MS. TUCCI-JARRAF: Without prejudice, I have a few
15 questions.

16 THE WITNESS: Good afternoon.

17 BY MS. TUCCI-JARRAF:

18 Q Good evening, Mr. O'Malley.

19 A Good evening.

20 Q Earlier you had stated that you're a senior vice
21 president, and I didn't catch the rest of the title. Could you
22 please repeat that for me?

23 A Sure. I'm also the chief investigator, and that's
24 within the legal group and there's an enforce -- in the legal
25 department of the New York Fed, there's an enforcement group,

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1 so I'm in that area. I guess my official title is financial
2 intelligence and investigations unit in the enforcement group.

3 Q Financial intelligence?

4 A And investigations unit, yes.

5 Q Is that separate than the senior vice president --
6 senior vice president title that you have?

7 A So there's -- senior vice president is kind of like
8 your rank within the bank. So there's many other senior vice
9 presidents in the bank. It's a senior management position.
10 But there are others that are not investigative in nature, and
11 then there's other people in the financial intelligence and
12 investigation unit that are not senior vice presidents. There
13 are other areas, you know, could be --

14 Q Okay. And this is for the Federal Reserve Bank New
15 York. Correct?

16 A Yes. Each reserve bank has their own staff.

17 Q Okay. And so that senior vice president is not for
18 the chief investigator of the legal department that you're
19 working in, it's separate?

20 A No. So I just became senior vice president. So,
21 before I was vice president and chief investigator of the
22 financial intelligence.

23 Q Okay.

24 A So I -- I was given a promotion, so my title of --
25 changed from vice president to senior vice president, but

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1 within the unit, my title stayed the same.

2 Q Okay. I'm sorry. I'm only familiar with chief
3 counsels in your guys' legal department, so ...

4 A No, that's okay.

5 Q And you've been with them for 19 years in the
6 enforcement arm of it or did you start out in a different
7 department?

8 A No. I started in the -- as an investigator in the
9 enforcement unit, yes.

10 Q Okay. And prior to that, did you have military
11 experience or anything like that?

12 A So I've got an accounting background. I'm a CPA in
13 New York state, and I'm a certified fraud examiner.

14 And the -- I guess what people term as my first real
15 job was -- I spent seven and a half years being an
16 investigative auditor for the New York State Attorney General's
17 Office for Medicaid fraud, so healthcare fraud.

18 And then after that, I spent another seven and a half
19 years at a large corporate -- a private investigation firm that
20 specialized in corporate investigations in Manhattan.

21 Q So in the New York area?

22 A Also in the New York area, yeah.

23 Q But the -- with Federal Reserve Bank New York, you
24 also -- do your investigations take you outside of the New York
25 area as well?

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1 A Well, the New York Reserve Bank includes part of
2 Connecticut, parts of New Jersey, Puerto Rico, Virgin Islands.
3 So it varies. Many of the banks we investigate are foreign
4 banks, so they will have operations overseas as well. So,
5 yeah, I've -- I've been to Europe conducting investigations,
6 you know, so it's hard to say, because the -- the banks have
7 such a wide geographical footprint.

8 Q And it says here that you had stated you were a
9 liaison with law enforcement. Can you please give us a little
10 bit more information what you mean by with -- liaison with law
11 enforcement? What does liaison mean?

12 A It means I'm one of -- one of the investigators in my
13 unit, Robert Amenta, and myself are generally the point people
14 for law enforcement. So there's an area of the Treasury
15 Department called FinCEN, the Financial Crimes Enforcement
16 Network, and they do a lot of training for law enforcement
17 agents. And they have both of us listed as references that if
18 you need information from the Federal Reserve Bank of New York,
19 call either Robert or myself.

20 Q Okay. And that's with FinCEN only, or is that with
21 also with other law enforcement agents?

22 A I would say I get calls from agents on at least a
23 weekly basis. I got a call earlier this afternoon from an FBI
24 agent, so I get calls all the time, Homeland Security, FBI,
25 IRS, a lot of different agencies.

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1 Q And so FinCEN is just a separate when you -- because
2 you brought that up. So most people don't know FinCEN and U.S.
3 Treasury. So when you say "law enforcement," I don't -- I
4 wasn't thinking FinCEN.

5 A So, I'm sorry. FinCEN has a manual for law
6 enforcement agents, so -- to do financial investigations. And
7 that's why many of the agents who -- you know, a lot of agents,
8 they might do gang, you know, or drug crimes, right, but if
9 they're getting involved in financial investigations, and if
10 they have any connection with the Federal Reserve, there's a
11 high likelihood they will call either me or somebody on my
12 team.

13 Q The manual is where they can look to figure out what
14 numbers, departments, does it list that kind of information?

15 A Yes. Yes, it does, yes.

16 Q Okay. So it's not like they would contact FinCEN,
17 the U.S. Treasury to say, "Who do we contact," it's in that
18 manual?

19 A Yes. I mean, they could call -- you know, a lot of
20 times what happens is they'll say, "Oh, I worked with another
21 agent in my office, and he referred me to you." So a lot of
22 times it's just within their agencies anyway.

23 But, officially, yes, you know, we're listed in the
24 manual that a lot of agents take home with them and go back to
25 their offices to help them when they conduct investigations.

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1 Q Okay. And when you said Robert Amenta is your
2 partner, can you please spell his last name for me?

3 A Yes. It's A-m-e-n-t-a.

4 Q A-m-e-n-t-a?

5 A Yes.

6 Q Okay. And you're physically stationed, typically
7 your office is in New York?

8 A Lower Manhattan, yes.

9 Q Okay. And do you train -- do you do training for law
10 enforcement regarding financial crimes?

11 A Yes, I do.

12 Q Is that the legal department that does that or the
13 enforcement?

14 A I guess I'm in the legal and enforcement group, so I
15 guess both, but, you know, we have other areas in the legal
16 that wouldn't do it. It would be the investigators in the
17 enforcement group that would conduct the training.

18 Q Do you do training for FBI then?

19 A Yes. I've conducted it for FBI, for U.S. Attorney's
20 Offices, for many different federal investigations and state
21 agencies as well.

22 Q And has that mainly been just in fraud, financial
23 fraud that you do that training?

24 A Yeah. Mostly payment systems to let them understand
25 how the payment systems work and how to -- how money moves

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Sean O'Malley - Cross-Examination

1 internationally.

2 Q So it sounds like you get a lot of calls from law
3 enforcement. Is there any time that the Federal Reserve, any
4 of the Federal Reserve Banks would actually contact and refer
5 to the FBI, for instance?

6 A Yes. We did in fact on this case in July of 2017,
7 when this -- we had a major ACH fraud being attempted on the
8 reserve banks, so we were in coordination with the FBI, and
9 we -- we were working with them on these matters.

10 Q So was it Federal Reserve Bank of New York that
11 actually initiated the investigation throughout all the FRBs?

12 A I can't really say that, because the -- the folks
13 that were not on the investigative said, they were on the
14 payment side, had already knew about this, because they were
15 rejecting tens of thousands of ACHs that were coming through
16 the system at that time.

17 So -- so when the FBI got involved, yes, it was -- it
18 was around that same time period. So there was an agent who I
19 think might have been out of Washington who was involved, and I
20 think he was contacted by the USAA investigator, and then we
21 coordinated and I contacted the cyber fraud unit in the New
22 York FBI to help make sure that they were involved as well.

23 Q Okay. Because I want to make sure that you mentioned
24 Washington, D.C. and New York, and I want to make sure -- a
25 cyber fraud. Can I please help you -- excuse me, could you

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1 please help me identify -- you stated that you contacted -- you
2 initiated -- on this particular case, you initiated the contact
3 with the FBI. Is that correct?

4 A The New York FBI, not -- the FBI had agents that
5 already knew about the fraud before I -- before I did.

6 Q Okay. So you were actually notified by the FBI in
7 New York regarding this case?

8 A I'm sorry. Let me go through it. So -- and this is
9 my understanding, is that USAA, an investigator there had
10 reached out to the FBI, and I believe that was Brad Carpenter,
11 special agent, and --

12 Q For which office? I'm --

13 A So he was -- Brad, I believe, is headquartered out of
14 the Washington office of the FBI.

15 Q Washington, D.C.?

16 A Yes.

17 Q District of Columbia?

18 A Yes. I'm sorry. However, he may be detailed to New
19 York. So I'm unclear exactly where Brad physically resides,
20 but I think he's operating out of either headquarters or the
21 Washington field office of the FBI.

22 Q So headquarters. And he's the one that contacted
23 you?

24 A No. Because -- because there's a network, I got
25 contacted by an agent in the Inspector General's Office of the

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1 Federal Reserve. So the Federal Reserve has inspector general
2 agents, and we coordinate with them, we provide training on
3 their behalf, and one of their agents contacted me when they
4 heard about this fraud. So -- and then they referred me to
5 Brad Carpenter. So that's how I got involved, and that was mid
6 to early July 2017.

7 Q Okay. I just want to make sure I have this straight.

8 A Uh-huh.

9 Q Because before you had said that you called the FBI
10 and then the FBI -- so I'm just making sure we have it.

11 A So to follow that up, then, as I mentioned that Brad
12 Carpenter, I was dealing with him, and then I reached out to
13 Mitch Thompson, who's a supervisor in the New York FBI who runs
14 one of their cyber fraud units.

15 Q Okay. So Federal Reserve Bank, OIG, Office of --

16 A Inspector General.

17 Q -- Inspector General contacted -- an agent contacted
18 you and referred you to Brad Carpenter. Is that correct?

19 A Ask me if I knew about the ACH fraud going on. I did
20 not.

21 Q Okay.

22 A Gave me a little bit of insight and referred to Brad
23 Carpenter, yeah, so ...

24 Q Okay. And that was early July, mid July, you stated?
25 Can you give me a time frame?

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1 A Could have been the 10th. I don't know the exact
2 date.

3 Q So possibly on July 10th --

4 A Uh-huh.

5 Q -- was when you became aware of this ACH problem in
6 general?

7 A Correct.

8 Q Okay. And so at that point, you talked to Brad
9 Carpenter after the OIG contacted you to come and notify you in
10 general, you then were referred to Brad Carpenter and you spoke
11 to Brad Carpenter?

12 A Yes.

13 Q Okay. And did Brad Carpenter give you more general
14 information on the ACH than OIG made you aware of?

15 A He confirmed he had an open investigation, and that
16 they were -- they were aware that -- that these were
17 generally -- there was linkage to videos that were on YouTube.

18 Q Okay. So when you say he had an open -- because, I
19 mean, we're here on a specific case. When he says he had an
20 open investigation, was that just a general investigation
21 regarding this ACH?

22 A There was a general investigation, and then there was
23 a specific investigation with USAA and --

24 Q Okay.

25 A -- the case that we're talking about right here,

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1 yeah.

2 Q I was just clarifying what Brad Carpenter was
3 speaking of when you had said that.

4 A Okay. So was Brad Carpenter on this particular case?

5 A Not that I know of, no.

6 Q Okay. So where is Brad Carpenter located?

7 A I don't know if he's physically located in the New
8 York office.

9 Q I'm sorry, what office is he -- what agency is he
10 with?

11 A The FBI.

12 Q He's with the FBI?

13 A Uh-huh.

14 Q And you're not sure what field office or --

15 A So I believe -- so Brad is also part of like a cyber
16 fraud group, okay, and this is my understanding, because I
17 don't know Brad outside of this interaction. My understanding
18 is, he's with a lot of institutions that like threat finance --
19 a threat -- a cyber threat working area. So he -- this came to
20 his attention.

21 Q So are you talking about cyber fraud group, do you
22 mean like a task force?

23 A I don't know how I could describe it. I mean, it
24 could be considered task force. I don't know if it's an
25 official task force.

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1 Q You don't know if it's an official task force?

2 A No.

3 Q And you're still not sure what -- is he with New York
4 FBI?

5 A That task force that I'm talking about, if we're
6 going to call it a task force, I understood operated in New
7 York. So I think Brad went back and forth between New York and
8 headquarters.

9 Q Headquarters in Washington, D.C.?

10 A D.C., yeah.

11 Q If you could give me just a second so I can write
12 this down. Thank you. I appreciate your patience.

13 So Brad Carpenter was the one you spoke about in
14 general about this open investigation. And please continue so
15 that we can figure out -- you mentioned a Mitch Thompson. Was
16 Brad -- did Brad Carpenter refer you to Mitch Thompson?

17 A No. I referred the matter to Mitch Thompson, because
18 I knew --

19 Q Which matter?

20 A The ACH fraud.

21 Q In general?

22 A In general.

23 Q Okay. I'm just trying to keep this clear.

24 A No. Okay. And I'm sorry, to make it clearer, Mitch
25 Thompson is in the New York office, and I was trying to refer

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1 that to him to see if they'd have an interest in opening a case
2 and not on this matter.

3 My understanding is that Mr. Beane was arrested, that
4 that matter was handled entirely within Tennessee and it did
5 not have anything to do with Mitch Thompson and/or Brad
6 Carpenter, but the -- the scheme, if you will, was the same.
7 It was all related to ACH frauds which occurred in July of
8 2017.

9 Q So Mitch Thompson, at what point -- who told you
10 about this particular case, I guess, maybe we could start here,
11 because there's --

12 A Yeah, so I was told --

13 Q -- no clear way we know how you found out about this
14 case.

15 A So I was subpoenaed to come here and testify in this
16 case, not -- I didn't have any particular involvement in the
17 investigation, okay, but I knew that this was going on, because
18 at the time, when we were trying to fight and stop the ACH
19 frauds from attacking the Federal Reserve Systems, what we were
20 doing was reaching out to different law enforcement agencies to
21 see who would coordinate and who would become involved in this
22 investigation.

23 Q Okay. Because we have a --

24 A The broader investigation, if you will.

25 Q Yeah, because you --

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1 A The broader ACH investigation as opposed to your
2 specific matter here.

3 Q Okay. So when you first became aware of this
4 specific matter here, was that when you were subpoenaed?

5 A No. I knew about it before then, but I wasn't
6 involved in investigating it. It wasn't until after I was
7 subpoenaed that I got involved more in the details, and I asked
8 from the Federal Reserve System to look at the actual
9 transactions themselves.

10 So I got -- I got involved, if you will, in the
11 nitty-gritty after I was subpoenaed, but I was involved -- I
12 had a general knowledge of the fraud in relation to the bigger
13 ACH fraud that was going on in the attack on the Federal
14 Reserve System in July of 2017.

15 Q Okay. Okay. So you speak with Brad Carpenter about
16 this, and then you go to Mitch Thompson, and you refer the
17 whole general ACH investigation -- and Mitch Thompson is in New
18 York, FBI, he's head of FBI in New York?

19 A He's a supervisor.

20 Q A supervisor. Okay. And you refer the whole ACH
21 general investigation to ask him if they're going to open an
22 investigation, just in general on the ACH?

23 A General, that's correct, yes.

24 Q Okay. So at that point, did Mitch Thompson tell you
25 about the Randall Beane case?

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1 A No. They knew that Tennessee was handling that case.
2 They extricated themselves. They were not involved in that at
3 all.

4 Q Okay. So -- but I'm asking, where did you learn
5 about the Randall Beane case, was it from Mitch Thompson?

6 A No. It was from Brad Carpenter.

7 Q You said Brad Carpenter only told you about the ACH
8 general. And when I asked you if he had told you about the
9 Beane, and you said no?

10 A No. I thought you said was he working that case, no,
11 so --

12 Q No, I just --

13 A -- I knew basically within realtime or within days of
14 the -- the USAA loss, I knew of that relatively right around
15 the time of the loss.

16 Q Okay. So you knew from Brad Carpenter, he's the one
17 that first made you aware of the Randall Beane case?

18 A Correct.

19 Q And Brad Carpenter is New York, he goes between New
20 York and headquarters in D.C.?

21 A Correct.

22 Q Okay. Feel like I gave birth.

23 Okay. We have -- and was it Mitch Thompson that told
24 you -- or excuse me, Brad Carpenter that told you it was
25 handled by Tennessee, that was being handled, or was it Mitch

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1 Thompson?

2 A I think that it may have been both, but certainly
3 Brad Carpenter. I knew that Mitch Thompson had no interest in
4 getting involved in a case in Tennessee.

5 Q So Mitch Thompson is just a supervisor at FBI. Brad
6 Carpenter, he has no title, just on that task -- maybe a task
7 force or a cyber group?

8 A I believe he's a special agent, and he's probably in
9 some sort of cyber-related area as well.

10 If you look at one of the exhibits was on the Fed
11 Reserve website, and I don't know if we could pull that exhibit
12 back up, but it -- the Federal Reserve, I believe, in Atlanta,
13 and I believe in New York, I think Brad Carpenter's listed
14 there as the FBI person to contact.

15 Q Was that on Exhibit 162, the announcement about the
16 scam?

17 A If we could pull that back up, we could take a look
18 at it. I don't know if it was on this one.

19 Q I think she only showed you one exhibit.

20 David, could you please help me with 162? Thank you.

21 A If you could go down.

22 Q I'll let you direct him where you need to go.

23 MS. DAVIDSON: That's the entirety of the exhibit.

24 THE WITNESS: Okay. So this refers people to the
25 IC3.gov website, which is where people were being asked to

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1 report this to, but I believe that the -- there were other
2 notices on the Atlanta Feds website and, I believe, also the
3 New York Feds website that specifically references Brad
4 Carpenter and gives a go-to, an e-mail or a phone number.

5 BY MS. TUCCI-JARRAF:

6 Q All right. Okay. And do you know when this notice
7 was put out?

8 A I think it was -- this notice?

9 Q Uh-huh. This specific one.

10 A I'm not --

11 Q I mean, we may not be able to, because it's cut off.

12 A I'm not sure.

13 Q Do you recall from memory?

14 A It would have been the summer of 2017, this one.

15 Q Summer. Did you give other law enforcement, you
16 know, like Brad Carpenter or Mitch Thompson, did you give them
17 any notice to put out on the FBI website as well, or did -- did
18 you give them any verbiage to put in to their -- any notices
19 about this alleged -- or this scam that you've noticed here?

20 A So it's my understanding that the Board of Governors
21 put this on their website. I don't know who approved that
22 language.

23 The Federal Reserve Bank of Atlanta also put a notice
24 on their website and their internal people did it.

25 My group, the enforcement group, was involved in

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1 putting the warning on the New York Federal Reserve's website.

2 And then, I think your question is, did the FBI
3 distribute something else additionally internally. I believe
4 that occurred as well.

5 Q Okay.

6 A But I don't know if that's published anywhere.

7 Q Yeah. Just what you know of is all I'm asking for.
8 So you didn't work directly with the FBI here in Tennessee
9 on -- on this particular case at all, except for being
10 subpoenaed to come here?

11 A Until I got called and requested to come testify,
12 yes. That was my first discussion of -- with anybody about
13 this particular case, except for referencing of the case
14 knowing that it occurred.

15 Q And what details, if any, did Brad Carpenter give you
16 regarding this particular matter? I'm asking, because it's
17 unusual for New York or for D.C. to mention one case
18 specifically.

19 A Well, it wasn't, because this is really the only case
20 where somebody was able to actually execute the fraud, you
21 know, successfully. Because in most cases, the ACHs were
22 rejected and nobody actually was able to extract the money from
23 their financial institutions. In this case, USAA released the
24 funds, and my understanding is, is that there was -- you know,
25 we saw the wire transfer before, almost a half million dollars

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1 was used to purchase an RV. That didn't occur in any other
2 cases, as far as I know.

3 Q So it was only regarding a wire or close to 500,000
4 for an RV that Randall Keith Beane's case was on the floor in
5 New York, in Washington, D.C.?

6 A It was part of it --

7 Q Or was it because of the CDs?

8 A So there were -- as I think I said, there were tens
9 of thousands of ACH debits attempted to be done in a fraudulent
10 manner. And what happened was, the largest ones stuck out. So
11 there was, I believe, 32 transactions that involve Mr. Beane
12 for approximately \$30.5 million. That volume got people's
13 attention.

14 And it -- although the reserve bank was able to
15 successfully pull back within that two-day period, they were
16 able to take those funds back from USAA Bank, as they did in
17 almost every other instance that I know of, this is the only
18 instance that I knew of that there was a substantial fraud that
19 was actually not only attempted, but actually executed.

20 Q Thank you for clarifying why one case would stick out
21 as opposed to, I believe, there was something like, I
22 personally knew of what, 300,000 different cases or instances
23 of this particular -- and I only knew a fraction, because I
24 didn't -- I didn't get all of the data. Obviously, you would,
25 because it was Federal Reserve, involving Federal Reserve Bank.

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1 So was there even more?

2 A So I don't dispute that it was hundreds of thousands.
3 I know that it was in the -- at minimum in the tens of
4 thousands in a very short period of time, so it very well could
5 be. I wasn't involved in looking at the aggregate numbers as
6 to what it ended up being at the end of the day.

7 Q Okay. Thank you for explaining how you found out
8 about this case and clarifying who you actually spoke with.

9 You stated that when Ms. Davidson had spoken to you
10 about the Federal Reserve, you had stated -- she asked if it
11 was the government agency, you had stated that it's a fiscal
12 agent for the government, that it was an instrumentality,
13 excuse me, a federal instrumentality, could you please explain
14 what that means?

15 A Yeah. To my knowledge, it's an instrumentality --
16 Congress created the Federal Reserve, and then they create the
17 ability to have certain corporate vehicles that operate based
18 upon their creating this structure, and that's how the -- the
19 12 Federal Reserve regions were created.

20 Q Okay. When you say it's a fed instrumentality, are
21 you talking about the Board of Governors of the Federal
22 Reserve?

23 A No. I'm talking about the 12 regional reserve banks.

24 Q So the 12 regional reserve banks. So you're saying
25 that it is -- that's part of the government, that is a

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1 government bank?

2 A It's kind of like the postal service. You know, the
3 postal service, people consider it part of the government, but
4 I think that's also a private corporation that's, you know,
5 part of the government, if you will, so ...

6 Q Okay. So the Federal Reserve Banks are actually
7 private banks that serve the U.S. government?

8 A I wouldn't describe it like that. I wouldn't -- a
9 private bank is -- connotes that it's a commercial bank, that
10 it's -- that it's owned and controlled by individuals without
11 any sort of delegated authority from anybody else, right, that
12 they were operating on their own.

13 That's not the way that the Federal Reserves work,
14 right. The Federal Reserves are created, there's a special
15 structure that's created by Congress, and the reserve banks,
16 especially on many of these things, and supervision,
17 especially, their power comes from the delegated authority from
18 the Board of Governors.

19 Q Okay. But -- and we'll get to the power authority.
20 I'm talking about the ownership. You had mentioned that banks
21 are part owners of the 12 branches or the Board of Governors or
22 both.

23 A The twelve branches.

24 Q Okay. And who owns the Board of Governors?

25 A It's just another U.S. government agency.

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1 Q Okay. So you're saying the Board of Governors at the
2 Federal Reserve are actually part of the government?

3 A That's correct.

4 Q They are the government, they aren't a private entity
5 at all?

6 A That's correct.

7 Q Okay. And the 12 member banks -- actually, there's
8 more than 12, because Seattle has one too.

9 A So you have branches. So, you know, I think Seattle
10 is probably a branch of the San Francisco Fed.

11 Q But the main ones we're talking about are the 12
12 branches, because the Seattle is underneath the San Francisco
13 branch?

14 A Yes, the Federal Reserve Banks.

15 Q Okay. And so those banks are part owners of
16 themselves?

17 A I wouldn't describe it that way.

18 Q Okay. So then please explain to us, because this
19 is -- you say the banks are part owners of the Federal Reserve?

20 A They have shares. Okay. So, you know, based upon
21 their deposits and how much money that they need to, you know,
22 they need to hold it reserve at the Federal Reserve, then they
23 become part shareholders, if you will, by putting up the
24 capital. So the Federal Reserve has funds sitting there. It's
25 a requirement that the depository institutions maintain certain

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1 reserves at the Federal Reserve. So the bigger the bank, the
2 bigger the reserves.

3 Q Okay. So when you say banks are part owners, it
4 indicates that there are other owners. Is that a correct
5 statement?

6 A If that's the case, then I would like to stand
7 corrected. They are shareholders. Okay. You're the one who's
8 putting the word "owner" into it, not me. So I'm --

9 Q I am quoting here --

10 A -- looking at, the way I look at the Federal Reserve,
11 it's an instrumentality of the United States created by
12 Congress. So it's owned by the people of the United States.
13 That's my understanding of how the Federal Reserve is, even the
14 reserve banks. There are shareholders. The banks have
15 reserves there and then they're shareholders. But it's not as
16 you are trying to equate that this is like a private bank in
17 any sort of way. It's not a private bank. It's a public
18 institution.

19 Q Thank you for that clarification. And I'm not trying
20 to disrespect you. I just wrote your quote down, banks are
21 part owners.

22 A Okay. So I hope I clarified --

23 Q Clarified that.

24 A I hope I clarified it. Thank you.

25 Q Okay. Thank you.

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1 Okay. I'm going to -- do we still -- do I still have
2 time to address an exhibit or --

3 THE COURT: How much cross-examination do you think
4 you have left?

5 MS. TUCCI-JARRAF: Quite a bit.

6 THE COURT: Let's go ahead and dismiss the jury for
7 the day. All right.

8 MS. TUCCI-JARRAF: Thank you.

9 THE COURT: And, again, just remind you you're
10 continuing to hear evidence in this case, not to discuss it
11 among yourselves or with anyone else. Continue to keep an open
12 mind as you hear all the evidence in this case, and otherwise,
13 I appreciate the jury's attention over these last three days.
14 Looking forward to see you here tomorrow, Friday, January 26th
15 at 9:00 a.m. Thank you.

16 (Jury out at 4:49 p.m.)

17 THE COURT: Okay. See everybody here tomorrow at
18 9:00 a.m. Thank you. Have a pleasant evening.

19 THE COURTROOM DEPUTY: This honorable court stands in
20 recess.

21 (Proceedings recessed at 4:50 p.m.)

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CERTIFICATE OF REPORTER

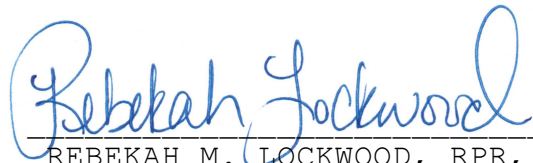
STATE OF TENNESSEE

COUNTY OF KNOX

I, Rebekah M. Lockwood, RPR, CRR, do hereby certify that I was authorized to and did stenographically report the foregoing proceedings; and that the foregoing pages constitute a true and complete computer-aided transcription of my original stenographic notes to the best of my knowledge, skill, and ability.

I further certify that I am not a relative, employee, attorney, or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorneys or counsel connected with the action, nor am I financially interested in the action.

IN WITNESS WHEREOF, I have hereunto set my hand at Knoxville, Knox County, Tennessee this 22nd day of April, 2018.



REBEKAH M. LOCKWOOD, RPR, CRR
Official Court Reporter
United States District Court
Eastern District of Tennessee